

2012

Ordinances of the Town of Stockton Springs, Maine

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LAND USE ORDINANCE

for the Town of Stockton Springs

Adopted by the Town of Stockton Springs on June 19, 1974

Amended July 1996

Amended June 19, 1999

Amended March 11, 2000

Amended June 14, 2003

Amended June 26, 2004

Amended June 25, 2005

Amended June 24, 2006

Amended June 16, 2007

Amended June 14, 2008

Amended June 20, 2009

Amended June 8, 2010

Amended June 18, 2011

Attested by: _____

Title: _____

Date: _____

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TOWN OF STOCKTON SPRINGS

SECTION I. TITLE

This Ordinance shall be known and may be cited as the Land Use Ordinance of the Town of Stockton Springs, Maine and will be referred to herein as “this Ordinance”.

SECTION II. PURPOSE

The purposes of the Ordinance are:

1. To implement the provisions of the Town’s Comprehensive Plan;
2. To encourage growth in the identified growth areas of the Community, and to limit growth in the rural areas;
3. To promote the health, safety, and general welfare of the residents of the Community;
4. To encourage the appropriate use of land throughout the Community;
5. To promote traffic safety;
6. To provide safety from fire and other elements;
7. To provide an allotment of land area in new development sufficient for adequate enjoyment of community life;
8. To conserve natural resources.

SECTION III. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution Title 30-A, MRSA Section 3001 (Home Rule), the State’s Comprehensive Planning and Land Use Regulation Act, Title 30-A, MRSA, Section 4312 *et seq.*, and the Mandatory Shoreland Zoning Act, Title 38, MRSA Section 435, *et seq.*

SECTION IV. APPLICABILITY

The provisions of this Ordinance shall govern all land, land uses, and all structures within the boundaries of the Town of Stockton Springs, including any structure built on, over, or abutting a dock, wharf or pier, or other structure extending beyond the normal high water line of a water body or within a wetland.

SECTION V. CONFLICTS WITH OTHER ORDINANCES.

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of the Ordinance or of any other ordinance, regulation or statute, the more restrictive provision shall control.

SECTION VI. AMENDMENTS

This Ordinance may be amended by a majority vote of the governing body at a Special or Regular Town Meeting. The State Planning Office shall be notified by Certified Mail of amendments of this Ordinance in accordance with 30-A MRSA Section 4347. A file of return receipts from such mailing shall be maintained as a permanent record.

SECTION VII. VALIDITY AND SEVERABILITY

Should any section or provision of this Ordinance be held invalid or otherwise unenforceable by a court of competent jurisdiction, such decision shall not invalidate any other section or provision of this Ordinance.

SECTION VIII. EFFECTIVE DATE

This Ordinance becomes effective upon enactment by the Town of Stockton Springs Town Meeting, at which time the Zoning Ordinance previously adopted on June 19, 1974 as amended is hereby repealed.

SECTION IX. DISTRICTS AND ZONING MAP

A. Districts

The areas to which the Ordinance is applicable are hereby divided into the following districts as shown on the Official Zoning Map of Stockton Springs and Wellhead Protection Zone Map, which is made part of this Ordinance:

- | | |
|-------------------------|-----------|
| 1. Town Square | (TS) |
| 2. Village 1 | (V1) |
| 3. Village 2 | (V2) |
| 4. Residential 1 | (R1) |
| 5. Residential 2 | (R2) |
| 6. Residential 3 | (R3) |
| 7. Mixed Use | (MU) |
| 8. Commercial | (CM) |
| 9. Rural | (R) |
| 10. Conservation | (C) |
| 11. Wellhead Protection | (overlay) |

B. Zoning Map

The Official Zoning Map shall be certified by the attesting signature of the municipal clerk and located in the Town Office.

C. Amendments

If amendments are made in the district boundaries or other matters portrayed in the Official Zoning Map, such changes shall be effective thirty (30) days after the amendment has been approved by Town Meeting.

D. Interpretation of District Boundaries

Unless otherwise set forth on the Official Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way. Where uncertainty exists as to the location of district boundary lines, Zoning Board of Appeals shall be the final authority as to their location.

SECTION X. ADMINISTRATION

A. Administrating Bodies and Agents.

i. Code Enforcement Officer and Assistant(s)

A Code Enforcement Officer (CEO) and one (1) or more Assistant Code Enforcement Officers, where appropriate, shall be appointed by the Selectmen annually by July 1.

ii. Zoning Board of Appeals

a. A Zoning Board of Appeals shall be created pursuant to the provision of Title 30-A, MRSA Sections 2691 and 4353.

b. The Stockton Springs Zoning Board of Appeals is comprised of a seven (7) member board comprised of five regular members and two alternate members, who are residents of Stockton Springs. Members serve a staggered term of three years and are appointed by the Board of Selectmen.

iii. Planning Board

The Stockton Springs Planning Board is comprised of a seven (7) member board comprised of five regular members and two alternate members, who are residents of Stockton Springs. Members serve a staggered term of three years and are appointed by the Board of Selectmen. The Planning Board acts as the planning and study committee of the Town and advises the Selectmen with regard to changes in the Town's planning ordinance. The Planning Board has the authority to review zoning as specified elsewhere in this Ordinance.

B. Permitting

i. Permit Requirements

- a.** A person contemplating making any land subdivision, building or construction, or any change of land use, prior to commencement of such activity, shall first submit a completed application to the Code Enforcement Officer (CEO) and subsequently obtain an approved permit. The CEO shall hold a preliminary on-site inspection with the applicant to verify essential aspects of the application. The CEO shall determine when the application is complete. The CEO shall make a permit decision on those projects where the CEO is so empowered (see Reviewing Authority for Land Use Activity Chart). Other applications shall be referred to the Local Inspector, Planning Board or Zoning Board of Appeals, whichever is appropriate.

A permit is not required for the construction or placement of a dog house, children's playhouse, tool shed or similar small building having not more than 100 square feet and not more than 12' in height providing such structures shall meet all other requirements of this Ordinance. This applies to residential use only.

- i.** Any person who creates a driveway, road, or temporary road shall first obtain an entry permit from the Code Enforcement Officer (CEO). The purpose of the said permit will allow the Highway Department to inspect the area for the need of a culvert. This road/driveway entrance will establish a physical address for the road/driveway for E-911 purposes. The cost of said permit shall be in accordance with the Town Fee Schedule. If a violation is found, no other permit shall be issued on the property if the property is deemed to be in violation of this subsection.

The initial authority to act on application shall be determined by Allowable Uses for Land Use Activity Chart (Appendix A)

ii. Application for permit

Any application for approval of a permit under this Ordinance shall be submitted in writing and contain the following:

1. A description of the activity contemplated, a site plan with the scale indicated, a calculation of the square footage of floor space, and an estimate of the approximate cost of construction.
2. Shall be graphically represented by such maps, plans and charts as the reviewing authority determines are appropriate.

3. Shall provide the make, year, and model for any proposed mobile homes.

iii. Procedure for Administering Permits

Permits shall not be denied if the proposed use is found to be in conformance with the provisions of this Ordinance. Permits shall either be approved or denied within thirty (30) days of receipt of a completed application, including all relevant requested information.

In order for a permit to remain valid, a permit holder shall substantially commence work relating to the permit within one (1) year of the date the permit is issued. The fee for permit renewal shall be the base fee as described in the attached Fee Schedule.

Where a permit is not obtained until after construction begins, the fee shall be tripled. This triple fee is in addition to any fine or penalty imposed for violating this Ordinance by failing to obtain a Building Permit prior to starting construction...

C. Fee Schedule

The application for a permit shall be accompanied by an application fee in such amount as the Board of Selectmen may by rule from time to time establish. The Fee Schedule (Appendix C) will be provided to the applicant by the Code Enforcement Officer. Fees shall be established sufficient to cover the cost to the Town in administering the provisions of this Ordinance.

An additional fee may be charged if the Planning Board and/or Board of Appeals require the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within ten (10) days after the Town submits an estimate for such services to the applicant. Failure to pay the fee to the Town within the required time period shall constitute a violation of this Ordinance. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject.

D. Measurement of Building Space

For the purposes of fee assessment, the measurement of a structure (footprint) shall include all floor area within the exterior walls and/or roof, including attached decks or porches.

New construction and any expansion of an existing structure that increases usable space requires a building permit and fee, based on the increase in usable space.

Replacement of part or all of an existing structure requires a permit. Normal maintenance and repair does not require a permit. Fees shall be based on building space measurement and rates.

E. Certificate of Occupancy Required

The Town of Stockton Springs encourages all new construction to meet current standards, have adequate insulation for the climate, be energy efficient and be safe for occupancy. A Certificate of Occupancy shall be required prior to living in or otherwise using the structure. This Certificate of Occupancy shall be issued for any structure that requires a building permit.

A Certification of Occupancy shall be issued prior to its use or occupancy for any structure that requires a Building Permit. In issuing the Certificate of Occupancy, the CEO shall address the following:

- i. Any electrical installations should be performed by a licensed electrician, who shall certify that electrical installations meet the National Electrical Code. If, however, the builder chooses to perform his own electrical installations, the work shall be inspected by a licensed electrician, who shall certify to the CEO that electrical installations meet the National Electrical Code. All fees connected with this inspection shall be borne by the applicant, and none by the Town.
- ii. Any plumbing, including supply lines, drain lines, sewer and septic systems shall be inspected by the Local Plumbing Inspector, who shall certify that the plumbing meets State standards. Said certification shall be provided to the CEO upon completion. All fees connected with this inspection shall be borne by the applicant, and none by the Town.
- iii. Any heating/cooling systems shall be installed in accordance with all manufacturers' instructions and standards for clearance, venting and supply lines. Oil-, wood-, or propane-burning equipment should be installed by a licensed technician, who shall certify that the heating/cooling system meets all applicable standards for safety. If, however, the builder elects to perform his own installation, the work shall be inspected by a licensed technician, who shall certify that the heating/cooling system meets all applicable standards for safety. All fees connected with this inspection shall be borne by the applicant, and none by the Town.

Once the CEO is satisfied that the above conditions and all other requirements of this Ordinance have been met, the CEO shall issue a Certificate of Occupancy, entitling the applicant to use the structure for the purpose defined in its building permit.

The Certificate of Occupancy shall in no way imply or guarantee that the Town of Stockton Springs warrants the safety or reliability of the structure or the work performed in its construction, or shall preclude the Town from prosecuting any violation found to exist.

SECTION XI. NON-CONFORMING USES

A. Expansions

A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure.

B. Any lawful use of buildings, structures, premises, or land or parts thereof existing at the effective date of this Ordinance or amendments thereto and not in conformance with the provisions of this Ordinance, shall be considered to be a non-conforming use.

C. Any non-conforming use may continue and may be maintained, repaired, and improved under these conditions. No such non-conforming use may be expanded, changed to another non-forming use, or renewed after it has been discontinued for a period of twelve (12) calendar months or more without a permit from the Planning Board in accordance with Land Use Standards of this Ordinance.

D. Any non-conforming lot of record existing before the effective date of this Ordinance and not adjoined by other land of the same ownership may be used in accordance with State law and Section XIV of this Ordinance.

SECTION XII. VARIANCES

A. Variances

The Board of Zoning Appeals may, upon written application of the affected landowner, grant a variance from the strict application of this Ordinance, as authorized by Title 30-A M.R.S.A., Section 4353(4-A), (4-B) and (4-C), as may be amended from time to time, when one of the following subsections applies:

- i. **Disability variance.** The Board of Zoning Appeals may grant a variance to an owner of a dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. For the purposes of this subsection, a disability has the same meaning as a physical or mental handicap under Title 5 M.R.S.A., Section 4553, and the term "structures necessary for access to or egress from the dwelling" is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

ii. Setback variance for single-family dwellings. The Board of Zoning Appeals may grant a setback variance for a single-family dwelling, not to exceed 20% of the setback requirement, if it finds that strict application of this Ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- a. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- b. The granting of a variance will not alter the essential character of the locality;
- c. The hardship is not the result of action taken by the applicant or a prior owner;
- d. The granting of the variance will not substantially reduce or impair the use of abutting property; and
- e. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

iii. Variance from dimensional standards. The board may grant a variance from the dimensional standards of this Ordinance (except setbacks for single-family dwellings as addressed in subsection ii) when strict application of the Ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, M.R.S.A. Section 435.

As used in this subsection, “dimensional standards” means and is limited to provisions of this Ordinance relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

No variance otherwise authorized by this section shall be granted if doing so will cause a substantial departure from the intent of the ordinance. A variance shall not be granted to permit a use or structure otherwise prohibited.

The Board of Zoning Appeals shall hold a public hearing on an application for a variance. Said public hearing shall be held within 30 days of the time of submission of the application. Notice of said hearing shall be posted in the Town Office at least fourteen (14) days prior to the public hearing and advertised in a newspaper of general circulation in Stockton Springs at least one time; the date of the publication to be at least 7 days prior to the hearing. The Board shall send notice of such public hearing by Certified Mail, to all owners of property within 1,000 feet of any boundary of the subject property. Said notice shall be mailed no later than 10 days prior to the date of the public hearing. The purpose of the public hearing shall be for the Board of Zoning Appeals to receive testimony from the applicant and the public related to the approval standards and any municipal or state ordinance, standard, or regulation which is applicable to the proposed. All variances granted by the Board of Zoning Appeals shall be recorded at the Waldo County Registry of Deeds.

SECTION XIII. ENFORCEMENT

A. Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

B. Code Enforcement Officer

It shall be the duty of the Code Enforcement Officer (CEO) and Assistant Code Enforcement Officer(s) to enforce the provisions of this Ordinance. If the CEO and/or Assistant CEO shall find that any provision of this Ordinance is being violated, they shall notify, in writing, the person responsible for such violation, indicate the nature of the violation and order the action necessary to correct it, including:

- i. Discontinuance of illegal use of land, buildings, structures, or work being done;
- ii. Removal of illegal buildings or structures;
- iii. Abatement of nuisance conditions and
- iv. Work performed without the necessary permit.

A copy of such notices shall be maintained as a permanent record.

C. Legal Action

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from any of the Code Enforcement Officers, are hereby authorized to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

The municipal officers, or their authorized agent are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and/or recovering fines without court action, or during court action; provided however, a municipal officer shall not allow an unlawful structure or use to exist or continue, unless the municipal officers are satisfied that the following conditions have been met: 1) there is no evidence that the landowner or violator acted in bad faith; 2) the violation did not continue following a municipal order to stop the violation; and 3) the unlawful structure or use will not result in a threat or hazard to public health or safety and will not result in substantial environmental damage.

D. Fines and Civil Penalties

Any violation of this Ordinance shall be enforced pursuant to 30-A MRSA Section 4452, as amended from time to time, or in any other manner permitted by this Ordinance or other applicable law. Any person, who violates any provisions of this Ordinance shall be subject to a fine of up to one hundred dollars (\$100) for each violation. Each day such a violation is continued is a separate offense.

SECTION XIV. ZONING DISTRICTS

A. District Establishment

1. Town Square District (TS)

The purpose of this district is to encompass the existing downtown area and preserve its unique character.

For allowable uses see Allowable Use Land Use Activities Chart. (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

2. Village 1 District (V1)

The purpose of this district is to recognize the current uses and preserve the integrity of the neighborhood.

For allowable uses see Allowable Use Land Use Activities Chart. (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

3. Village 2 District (V2)

The purpose of this district is to provide for expansion of limited commercial uses, with the provision that they have a ground floor area of less than 1,500 sq. ft. and provide an area for high density residential development.

For allowable uses see Allowable Use Land Use Activities Chart. (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

4. Residential 1 District (R1)

The purpose of this district is to provide an area of the community where growth can occur while minimizing the potential for sprawl and retaining the uniqueness of this section of the community.

For allowable uses see Allowable Use Land Use Activities Chart. (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

5. Residential 2 District (R2)

The purpose of this district is to provide as area of the community where growth can occur.

For allowable uses see Allowable Use Land Use Activities Chart. (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

6. Residential 3 District (R3)

The purpose of this district is to recognize the area of the community where growth in residential housing and home occupations is occurring.

For allowable uses see Allowable Use Land Use Activities Chart. (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

7. Mixed Use District (MU)

The purpose of this district is to allow for an area in which residential and limited commercial growth can occur in the Stockton Harbor and Fort Point Cove areas.

For allowable uses see Allowable Use Land Use Activities Chart. (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

8. Commercial District (CM)

The purpose of this district is to recognize existing development; to ensure that commercial sprawl does not occur along this section of Route 1; but to also allow the Town the opportunity for a limited commercial growth area while complying with MDOT access management requirements.

For allowable uses see Allowable Use Land Use Activities Chart. (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

9. Rural District (R)

The purpose of this district is to recognize areas of existing residential development while maintaining the rural character of the Town, to protect agricultural and forestry uses, to provide open spaces and to provide for single family residential dwellings with larger lot sizes

For allowable uses see Allowable Use Land Use Activities Chart. (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

10. Conservation (C)

The Conservation District is an area of land currently owned by the State of Maine and designated as a state park or conservation area. The uses within this district are regulated by the State of Maine.

11. Wellhead Protection (Overlay)

To manage the groundwater recharge areas of the Stockton Springs/Prospect Esker Aquifer in order to maintain the present rate of recharge and where possible, to enhance recharge-thus ensuring dependable water supply to the Town for the future.

B. Prohibited Uses

Uses not allowed as permitted uses are prohibited within each district in Subsection A.

SECTION XV. GENERAL PERFORMANCE STANDARDS

All land use activities shall conform to the following applicable land use standards.

A. Agriculture

All spreading or disposal of manure shall be accomplished in conformance with the “Maine Guidelines for Manure and Manure Sludge Disposal on Land,” published by the University of Maine and the Maine Soil and Water Conservation Commission, November 2001, or subsequent revisions thereof.

B. Campgrounds

Campgrounds shall conform to the following minimum requirements:

- i. Each tent, trailer, or RV site shall contain a minimum of five thousand (5000) square feet of suitable land, not including driveways and roads or accessory facilities for each site;
- ii. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each site;
- iii. The area intended for placement of the tent, trailer, or RV and utility and service building shall be set back a minimum of fifty (50) feet from the exterior lot lines of the camping area;
- iv. Screening shall be required to shield the campground from abutting areas.

C. Bulk Oil and Chemical Storage

- i. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of 38 MRSA, Section 541, *yet seq.*
- ii. Such storage shall be in conformance with the NFPA Codes applicable to the stored substance; and
- iii. Where applicable, the applicant shall have the burden of proof to assure the Planning Board or Code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permits may take place.

D. Clearing

Clearing of trees and conversion to other vegetation is permitted for approved construction and landscaping. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty.

E. Conversions

Conversions of existing structures into multi-family dwelling units, in districts permitting multi-family dwellings, may be permitted subject to Site Plan Review, that:

- i. Off-street parking for two (2) vehicles per dwelling unit plus maneuvering space will be provided;
- ii. Approval of conversion plan by the fire, electrical, and plumbing inspector is required prior to issuance of a building permit;
- iii. Each dwelling unit shall have its own toilet and kitchen facilities and no dwelling unit will share facilities with any other dwelling unit.

F. Dust, Fumes, Vapors, Gases, Odors, Noises, Glare and Explosive Materials

- i. Emission of dust, dirt, fly ash, fumes, vapors or gases which pose an unreasonable risk of harm to human health or the environment shall be prohibited;
- ii. No land use or establishment shall be permitted to produce unreasonable offensive or harmful odors, perceptible beyond their lot lines, measured either at ground or habitable elevations;
- iii. Excessive noise shall not be permitted to produce unreasonable disturbance beyond the lot lines of the source of the noise;
- iv. No land use or establishment shall be permitted to produce unreasonable glare or brightness beyond its lot lines; and
- v. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA), Section 30, 58, and 59-A.

G. Electrical Installations

Electrical installations shall be in accordance with the National Electric Code.

H. Erosion and Sedimentation Control

Filling, grading, lagooning, dredging, earth moving activities, and other land use activities shall be conducted in such a manner as to prevent, to the maximum extent possible, erosion and sedimentation of the surface waters. To this end, all construction shall be accomplished in conformance with the erosion prevention provisions of "Best Management Practices for Construction," published by the Maine Soil and Water Conservation Commission.

I. Mineral Extraction

Mineral extraction shall be conducted in accordance with the Mineral Extraction Ordinance adopted March 25, 2009, as the same from time to time may be amended or replaced.

J. Groundwater Protection

Extraction of groundwater shall be in accordance with the Wellhead Protection Ordinance, adopted June 25, 2005, as the same may, from time to time, be amended or replaced.

K. Home Occupations

The purpose of the Home Occupation provision is to permit the conduct of those businesses which are compatible with the Districts in which they are allowed. Home occupations are limited to those which may be conducted within a residential dwelling or accessory structure without substantially changing the appearance or condition of the residence or accessory structures.

- i. Home occupations shall be carried out wholly within a dwelling unit or accessory structure to a dwelling unit;
- ii. No more than two other persons who are not family members residing in the dwelling unit shall be employed in a home occupation;
- iii. Home occupations shall be clearly incidental and secondary and shall be no more than twenty five percent (25%) of the use of, or floor area of, a dwelling unit used primarily for residential purposes. An accessory structure may be wholly devoted to the home occupation, provided that other provisions of this section are met.

- iv. In connection with a home occupation there shall be no exterior signs other than permitted by Sub-Section V, of this Section, no exterior storage of materials, and no other exterior indication of the home occupation or variance from the residential character of the premises.
- v. A home occupation shall not create noise, dust, vibration, odor, smoke, glare, excessive traffic, electronic interference, fire hazard, or any other hazard or nuisance to any greater degree or more frequent extent than that normally experienced in an average residential building in the district is which located.
- vi. No significant amount of goods, merchandise, or product shall be sold upon the premises, other than those produced, and/or repaired on the premises.
- vii. Home occupations providing, for a fee, professional, educational and/or personal services to groups of persons on the premises shall provide adequate off-street parking spaces in addition to those required for the residence.

L. Junkyards and Automobile Graveyards

- i. Junkyards shall be located a minimum of two hundred (200) feet from the edge of the right-of-way; and shall be set back one hundred (100) feet from all side and rear lot lines.
- ii. Junkyards shall be located a minimum of three hundred (300) feet from any public park, facility, or grounds.
- iii. Junkyards shall be entirely screened from view by earth berms, planting or fences which shall be well constructed and properly maintained at a minimum height of six (6) feet and sufficient to accomplish the complete screening from ordinary view.
- iv. Upon arrival at the junkyard, all fuel, engine oil, radiator, battery, transmission fluids, etc. shall be drained from all vehicles, and appropriate safety precaution, such as the removal of door and trunk locks, shall be taken to avoid injury and accidents.
- v. No vehicles, including boats, may remain intact in the yard for more than thirty (30) days, and complete processing of vehicles or boats into salvage materials shall be accomplished within four (4) months.
- vi. All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area.

- vii. No open burning of salvage material or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in an environmentally sound manner.
- viii. Junk Yards and Dumps – Governed by State Law 30-A MRSA 3571, *et seq.* as the same, from time to time, may be amended or replaced.

M. Lot Standards

- i. Land Not Suitable for Development

The following lands shall not be included in calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Ordinance:

- a. Land which is situated below the normal high water mark of any water body;
 - b. Land which is part of a right-of-way or easement, including utility easements;
 - c. Land that has to be created by filling or draining a pond or wetland.
- ii. All applicable lot standards must be met for each dwelling unit;
 - iii. Refer to Lot Dimensions Chart. (Appendix B)

N. Lighting

All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection of adjacent properties and the traveling public, subject to review by the reviewing authority having jurisdiction over the permit for the use or structure.

O. Mobile Home Parks

Mobile Home Parks are subject to Site Plan Review.

P. Mobile Homes and Recreational Vehicles

Any mobile home built prior to June 15, 1976 shall meet the requirements of state law.

- i. Any mobile home not intended to be a permanent fixture on the land shall be parked only in a duly authorized mobile home park except that a mobile home may be permitted on the site of a construction project for not more than two (2) consecutive six-month (6) periods provided that a special permit is issued by the Code Enforcement Officer for each six-month (6) period. Such permit may only be issued if the Code Enforcement Officer is satisfied that:
 - a. The mobile home is a necessary convenience for the construction project and is clearly subordinate to such project.
 - b. No health hazard or problems of sanitation will be caused by improper disposal of sewage from the mobile home;
- ii. The Code Enforcement Officer may issue a permit for use of a mobile home for a temporary construction office for up to six (6) months in districts where offices are permitted or on construction sites anywhere in the Town of Stockton Springs.
- iii. Recreational vehicles shall in no case be used as a permanent dwelling and any recreation vehicles in use as a temporary dwelling shall be stationed only in an authorized campground or mobile home park, or as an accessory use on the premises of a consenting private property owner for use only by members of the property owner's family or social guests.
- iv. Notwithstanding the other provisions of this Section, unoccupied mobile homes may be placed on a lot for sale by a dealer where permitted by this Ordinance.

Q. Multiple Uses on a Single Lot

- a. No structure shall hereinafter be erected, altered, or utilized if the effect of such erection, alteration or utilization is to create more than one (1) use or principal structure on a single lot, except home occupations, unless all other requirements of this Ordinance are met.
- b. More than one use may be permitted in the same structure in the Town Square, Village 1, Village 2, Mixed Use and Commercial Zones.
 - i. All of the other requirements of the District in which the uses are located are met, with the exception that uses may be in the same building.

- ii. All traveled ways to be used for the means of ingress and egress shall have a usable width of twenty-four (24) feet.

R. Municipal Services

The proposed development shall not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, schools, open spaces, recreation programs and facilities, and other municipal services and facilities.

S. Preservation and Enhancement of the Landscape

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be completed that will define, soften or screen the appearance of off-street parking areas, buildings and other structures from the public right-of-way and abutting properties in order to enhance the physical design of the proposed development and to minimize the encroachment of the proposed uses on neighboring land uses.

Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity with the view of the proposed structures, so as to have a minimum adverse effect on the environment and aesthetic qualities of the developed and neighboring areas.

T. Road Construction

i. Erosion Control

Roads shall be located, constructed, and maintained in such a manner that minimal erosion hazard results. Adequate erosion control provisions shall be located, construction and maintained in conformance with the erosion prevention provisions of "Permanent Logging Roads for Better Woodlot Management," published by the Division of State and Private Forestry, Forest Service Northeastern Area, U.S. Department of Agriculture, 1973, or subsequent.

ii. Road Standards

Additionally, all new roads constructed shall conform with the following standards:

- a. Road crossings of watercourses shall be kept to the minimum number necessary;
- b. Bottoms of culverts shall be installed at stream bed elevation;
- c. All cut or fill banks and areas of exposed mineral soil shall be re-vegetated or

otherwise stabilized according to accepted erosion control guidelines;

- d. Bridges or culverts of adequate size and design shall be provided for all road crossings of watercourses which are to be used when surface waters are frozen; and
- e. Road widths and turnaround radius shall conform with the current Subdivision Ordinance of the Town of Stockton Springs.

iii. Town Road Entrance

Prior to constructing any road entrance that abuts a Stockton Springs town road, a permit for same must be approved by the Stockton Springs Road Commissioner and Code Enforcement Officer and a copy of the permit must be on file at the Town Office. Roads that abut State roads require a State Entry Permit.

The following minimum standards for new or replacement entrance culverts by town roads:

- a. Culvert must be new;
- b. Culvert diameter must be a minimum of fifteen (15) inches or any larger diameter deemed necessary by the Road Commissioner or Code Enforcement Officer;
- c. Length must be a minimum of thirty (30) feet which may be reduced to twenty-four (24) feet by permission of the Road Commissioner or Code Enforcement Officer;
- d. Materials: aluminum clad corrugated metal pipe is required. For twenty-four (24) inch and larger diameters, fourteen (14) gauge material is required; for below twenty-four (24) inch diameters, sixteen (16) gauge material is required. Bituminous coated corrugated metal pipe and plastic corrugated pipe are prohibited.
- e. Design Standards: Where the driveway is pitched upward from the road, the shoulder grade should be maintained as far as practical to prevent water flowing down the driveway onto the road. If not practical, some other means of diverting water flow must be provided.

iv. Emergency Vehicle Access

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

U. Sanitary Standards

Sewage disposal systems shall comply with current State of Maine Plumbing Code.

For allowable uses see Allowable Uses for Land Use Activities Chart (Appendix A)

Performance Standards: Refer to Lot Dimensions Chart. (Appendix B)

V. Signs

i. For residential uses only the following signs shall be permitted:

- a. Signs are permitted and may be used to convey the inhabitants' name, the property name, and safety and caution messages. Such signs shall not be placed on the roof of the building and shall be no larger than six (6) square feet in area.
- b. Rental vacancies may be advertised with non-illuminated signs no larger than eight (8) square feet in area. Such signs shall be erected only during times as the rental property is vacant.
- c. The sale of real estate may be advertised by non-illuminated temporary signs no larger than eight (8) square feet in area. Each broker or person advertising the sale shall be permitted only one sign on any premises.
- d. House numbers must be clearly visible from the road.

ii. Limitations on types and locations of signs:

- a. No sign shall be illuminated with flashing, moving, or animated-type lights.
- b. There shall be no moving signs or signs with moving parts.
- c. No sign shall be located off the site of the lot on which the related services are located except for directional signs.

iii. The sign regulations, Subsections i and ii above, shall not apply to the following:

- a. Legal notices, identification, informational, or directional signs erected or

required by governmental bodies.

- b. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter or commercial identification.
- c. Signs bearing religious messages and signs showing the time and place of services or meeting of religious or civic groups, provided the size and place limitations contained in this Ordinance are met.

iv. Calculation of the Sign Area

The area limitations for the size of the sign related to one of two sides of the signboard, both sides of which may have the sign message on it. For example: a sign limited to ten (10) square feet may have two (2) sides with the result that the sign message covers an area of twenty (20) square feet.

v. Official Business Directional Signs (OBDS) Directional Signs

Official Business Directional Signs in public ways must conform to the Department of Transportation regulations and must be approved by the Stockton Springs Selectboard or their designee.

vi. All Signs Shall be Properly Maintained and Kept.

Any sign now or hereafter existing which no longer advertises a bona fide business conducted, product sold, or activity or campaign being conducted shall be taken down and removed by owner, agent or person having the beneficial use of the building structure or lot upon which such sign may be found, within ten (10) days after written notification from the Code Enforcement Officer and, upon failure to comply with such notice within the time specified in such order, the Code Enforcement Officer is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner of the building, structure, or lot to which such sign is attached.

vii. Temporary Signs

Street banners shall be no larger than fifty (50) square feet in area. No temporary sign, other than a street banner, shall be larger than ten (10) square feet in area. Permits for hanging street banners across the public way shall be issued only upon assumption of complete liability in writing by the person, firm or corporation hanging banner for any damage resulting from the placement of said banner. Such liability shall be acknowledged upon the application to the Code Enforcement Officer for the permit.

viii. For Industrial, Commercial, Education, Institutional and Religions uses, only the following signs shall be permitted, subject to approval by the Code Enforcement Officer or Site Plan Review (whichever is appropriate):

- a. Signs shall relate to the premises on which they are located and shall identify the occupant of such premises or advertise the service available within the premises.
- b. On each premises there is permitted one sign affixed to the exterior of a building for each occupancy under common ownership operation or control therein. Signs may be placed on the roof of a building. Roof signs shall not exceed two-thirds of the length of the building and shall not extend higher than two (2) feet above the highest point of the building.
- c. Free-standing signs are limited in number to one per building, except that where one occupant occupies more than one building per lot or a combination of lots mutually adjoining and in common ownership, only one free standing sign shall be permitted. The top edge of any such free standing sign shall not be higher than sixteen (16) feet vertical measure above the average ground level from the base of the sign. For traffic safety, where vision may be obscured entering a public street, the whole of the sign board or display elements of any free standing sign shall be either three (3) feet in height or above seven (7) feet in height above the street grade. A free-standing sign may be located within the front yard space, but shall not be closer than ten (10) feet to the street right-of-way, and no closer than ten (10) feet to either of the lot side lines
- d. No sign or combination of signs on a common support system shall have a signboard area exceeding thirty-two (32) square feet on any of two sides.
- e. Signs may be illuminated only by shielded, non-flashing lights.

ix. Outdoor Advertising and Signs

Outdoor advertising and signs are governed by Section XI, Land Use Standards I and 30 MRSA, Section 1914, as the same may, from time to time, be amended or replaced.

W. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or

after construction. Proposed uses requiring subsurface wastewater, commercial or industrial development, and other similar intensive-land uses, shall require a soils report prepared by a State-certified soil scientist or geologist, based on an on-site investigation. Suitability considerations shall be based primarily on criteria employed in the National Cooperative Soil Survey as modified by on-site factors such as depth to water table and depth to refusal.

X. Structure

i. Flood Hazard

All new construction or substantial improvement of any existing structure within areas of special flood hazard shall comply with the provisions of the Flood Plain Management Ordinance of the Town of Stockton Springs.

ii. Minimum Setbacks – See Lot Dimensional Chart

- a. New buildings shall be set back at least ten (10) feet from a rear or side property line in all directions.
- b. Anything constructed with a fixed location on or in the ground, including roads, driveways, and installation for essential utilities and services, shall be at least ten (10) feet from a property line. Mailboxes, fences, and utility poles are specifically excluded from this property line setback provision, provided that adequate space is allocated for maintenance, upkeep and repairs.
- c. Where there are existing buildings on a street, setback from the edge of the road right of way for a new building may be reduced to the average setback of the existing building within five hundred (500) feet on either side of the new building.

iii. Building or Structure Height

The maximum height shall not exceed thirty-five (35) feet from ground level to the peak of the roof, not including chimneys, antenna, steeples, utility poles and transmission towers.

Any existing structure which does not conform to this Ordinance shall not be made more non-conforming

Y. Timber Harvesting

- i. All slash shall be disposed of in such a manner that it lies on the ground and no

part thereof extends more than four (4) feet above the ground.

- ii. Harvesting operation shall be conducted in such a manner and at such times that minimal soil disturbance results. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.
- iii. Harvesting operations not within the Shoreland Zone shall be conducted in such a manner as to be consistent with the State Forest Practices Act (12 MRSA Section 8866, *et seq.* as the same, from time to time, may be amended or replaced.

Z. Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

AA. Wireless Telecommunication Facilities

Wireless telecommunication facilities are subject to Wireless Telecommunications Facilities Ordinance, adopted June 14, 2008, as may be amended from time to time.

XVI. APPEALS

A. Appeals to the Zoning Board of Appeals

- i. The Zoning Board of Appeals shall hear appeals from final decisions of the Planning Board or Code Enforcement Officer in the administration of this Ordinance. The Zoning Board of Appeals shall hear an appeal within thirty (30) days of the receipt of a written application, payment of applicable fees from an aggrieved party and public notice. Appeals of any final decision of the Planning Board or Code Enforcement Officer shall be made within thirty (30) days of the date of the decision. Said appeals must be signed by the Appeal Applicant and received by the Town Clerk within said thirty (30) day period: the Appeal Applicant shall use official forms as provided through the Code Enforcement Officer. Notice of said hearing shall be posted in the Town Office at least fourteen (14) days prior to the public hearing and advertised in a newspaper of general circulation in Stockton Springs, the date of publication to be at least seven (7) days prior to the hearing. The Zoning Board of Appeals shall send notice of such public hearing by Certified Mail, to all owners of property within one thousand (1000) feet of any boundary of the subject property. Said notice shall be mailed no later than ten (10) days prior to the date of the public hearing. The purpose of

the public hearing shall be for the Zoning Board of Appeals to receive testimony from the applicant and any interested parties regarding qualification of the variance relative to any municipal or state ordinance, standard or regulation which is applicable to the proposed variance and the relationship of the variance to the ordinance, standard or regulation. All costs related to the appeal process will be paid, in advance, by the applicant.

- ii. Appeals from decisions of the Planning Board shall be reviewed by the Zoning Board of Appeals and should be upheld if correct as a matter of law and based upon substantial evidence in the record.
- iii. Appeals from decisions of the Code Enforcement Officer shall be reviewed by the Zoning Board of Appeals *de novo*, pursuant to State Law.

B. Appeals to Superior Court

An appeal may be taken to the Superior Court by any party within forty-five (45) days of the vote on the original decision by the Zoning Board of Appeals in accordance with State Law.

XVII DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their definitions shall have the meaning given herein. When non-consistent with the context, words used in the singular include the plural. The word "SHALL" is always mandatory and not discretionary in sense. Further, any terms, phrases, words and their derivatives not defined herein, shall be given that definition which is promulgated in *Collins Webster's Dictionary, Copyright June, 2007*, on file in the Town Clerk's Office.

Accessory Living Quarters	An accessory living quarters is a second dwelling unit that may be contained within an existing single-family home, garage, carriage house or outbuildings. An accessory living quarters is required to be a complete housekeeping unit that can function independently with separate access, kitchen, bedroom and sanitary facilities.
Accessory Structure or Use	A use or structure, which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof

or a common wall is considered part of the principal structure.

The raising of animals or produce for personal domestic use or incidental sales in every district is considered an accessory use, provided that any buildings housing animals shall be located not closer than seventy-five (75) feet of any lot line.

Adult Entertainment

Any commercial business in any use category that provides sexual entertainment or services to customers, of which a substantial or significant portion consists of selling, renting, leasing, exhibiting, displaying or otherwise dealing in materials, devices or services of any kind which are sexually explicit or appeal to prurient interest and which depict or describe sexual activities. Adult uses may include, but are not limited to: X-rated video shops and bookstores, live or video peep shows, topless or fully nude establishments, combination book/video and “marital aid” stores, non-medical massage parlors, hot oil salons, hourly motels, body painting studios, swingers’ clubs, X-rated movie theaters, escort service clubs and combinations thereof.

Aggrieved Party

A person whose land is directly or indirectly affected by the granting or denial of a permit or variance, a person whose lands abuts land for which a permit or variance has been granted, or a group of five or more citizens of the municipality who represent an interest adverse to the granting or denial of such permit or variance.

Agriculture

The production, keeping or maintenance for personal use and/or sale or lease of land for plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruit and vegetables and ornamental and greenhouse products; all for personal use or profit. Does not include Forest Management.

Agriculture, Commercial

Where the majority of the land or the majority of the

income derived from the land is from agricultural use.

Amusement Facility

Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Applicant

The person applying for a permit who demonstrates legal standing or interest to apply by means of ownership, authorized agent or option or purchase and sale agreement or the like.

Aquaculture

The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Aquariums

An establishment where aquatic organisms are kept and exhibited.

Aquifer

A geological formation, composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water, as mapped by the Maine Geological Survey.

Authorized Agent

A person having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

Automotive Repair

A commercial establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, transmission work, paint, body and fender and major engine and engine part overhaul, which must be conducted within a completely enclosed building. May include the sale of used motor vehicles, which may be displayed outside.

Automotive Service Station	That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispersed from fixed equipment into fuel tanks of motor vehicles. May include accessories and minor service.
Bed and Breakfast Facility	A type of lodging based in the permanent dwelling of the person acting as a proprietor that offers for payment sleeping rooms on a transient basis to the general public. A Bed and Breakfast offers a breakfast meal to transient guests, and may also offer evening meals, with reservations only, to non-guests.
Boat Charters	The practice of renting or chartering, for a fee, a sail boat or power boat and traveling to various destinations.
Boat Storage Facilities	A space or place for storing boats.
Bridges Over 20 Feet in Length	Temporary: Structures which remain in place for less than seven months in any period of twelve consecutive months. Permanent: Structures which remain in place for seven months or more in any period of twelve consecutive months.
Buffers	Units of land, together with a specified type and amount of vegetative planting thereon, and any structure, which may be required between land uses to eliminate or minimize conflicts between them.
Building	A structure with exterior walls or fire walls built or occupied as a shelter or roofed enclosure for persons, animals, or property of any kind used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes.
Building Coverage	The relation of the total ground floor area of the buildings on a lot on which they are located.

Building or Structure Height	The vertical distance between the highest point of the structure and the average grade of the existing or original ground adjoining the building, whichever distance is greater. This distance shall not apply to utility poles, transmission towers, chimneys, antennas, steeples, and other similar appurtenances which are attached and incidental to the primary use of the structure, but the vertical distance shall apply to any structure (other than utility poles and transmission towers) that is essential to the intended use of the property.
Campground	Land upon which one or more tents are erected or recreational vehicles are parked for non-permanent occupancy for a fee on sites arranged specifically for that purpose. The word “campground” shall include the words “camping ground” and “tenting grounds.” The site may or may not have water, sewer, and cooking facilities; for use by: recreational vehicles that are road legal, self-contained living space and may be self-propelled or towed.
Cluster Housing	A development design technique, according to an approved plan, of a large tract of land where three or more residential buildings are constructed on lots smaller than normally required in the district where located, provided the overall density of the development of the tract does not exceed the density or requirements of the district; and land not built upon is permanently preserved for recreation, “open space” and the preservation of environmentally sensitive features.
Cluster Subdivision	A subdivision in which, if the developer provides dedicated permanent open space, the lot sizes may be reduced below those normally required in the land use district but at or above state minimum lot size requirements.

Commercial Business/Use	The use of lands, buildings, or structures, other than a “home occupation” or “agriculture” defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental or residential buildings and/or dwelling units.
Commercial Indoor Recreation Use	Includes, but is not necessarily limited to, the following commercial uses: arcades, bowling alleys, indoor sports arenas, tennis courts, race tracks, indoor animal exhibits, etc.
Commercial Outdoor Recreation Use	Includes, but is not limited to, the following commercial uses: tennis courts, amusement and theme parks, water slides, zoos and animal parks, race tracks, speedways, motorcycle tracks, riding stables, etc.
Commercial Recreation	Any commercial enterprise that receives a fee in return for the provision of some recreational activity including, but not limited to: campgrounds, racquet and tennis clubs, health facility, amusement parks, gymnasiums and swimming pools, etc., but not including amusement facility, as defined herein.
Commercial Sprawl	Dispersed commercial development outside of a compact urban and village centers along highways, undeveloped land and in a rural country side.
Comprehensive Town Plan	A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, and expression of policies for achieving these goals, and a strategy for implementation of the policies.
Curb Cut	The opening along the curb line at which point vehicles may enter or leave the road way.
Day Care Facilities	A dwelling in which a person or combination of persons maintains or otherwise carries out a regular program for consideration, for any part of a day, providing care and protection for three (3) or more children under the age of sixteen (16) unrelated to

the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Health and Human Services as follows:

Day Care Center: A Day Care Facility as defined in State statutes for 13 or more children on a regular basis

Day Care Home: A Day Care Facility as defined in State statutes for 3 to 12 children on a regular basis

Day Care Facility for Adults: A dwelling in which a person or persons residing on the premises provides or maintains a regular program, for consideration, for any part of the day, providing care and protection for 3 to 12 adults over the age of 16

De Novo Hearing

A new trial in the legal system

Driveway

A vehicular access-way serving two dwelling units or less.

Dwelling

A building designed for and occupied exclusively for residence purposes

Dwelling Unit

A room or group of rooms designed and equipped exclusively for use as a permanent, seasonal or temporary living quarters. The term shall include mobile homes, but not recreational vehicles.

Emergency Operations

Emergency operation shall include operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Essential Services

Gas, electrical, communication facilities, steam, fuel or water supply, transmission or distribution systems.

Excursions

A usually short journey made for pleasure: an outing.

Family	Any number of individuals living together and residing together as a single, non-profit housekeeping unit and doing their cooking on the premises; excluding, however occupants of a club, fraternity house, lodge, residential club or rooming house.
Farm Stand	Sale of seasonal agricultural products raised or grown on said premises with a sales area established by the land use performance standards.
Farming	The ordinary agricultural use of land
Fast Food Restaurant	<p>A facility where food and/or beverages are:</p> <ol style="list-style-type: none"> 1. Primarily intended for immediate consumption; 2. Available upon a short waiting period; 3. Served over the counter rather than at a table; <p>and/or</p> <ol style="list-style-type: none"> 4. Prepackaged or presented in such a manner that the food and/or beverage can be readily eaten off the premises where sold. <p>For the purposes of this Ordinance, a fast food restaurant shall not be considered an accessory use even if subordinate to another use.</p>
Forestry Operations	Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, regeneration of forest stands and other similar associated activities to include timber harvesting, pursuant to and consistent with 12 MRSA Section 8868, <i>et seq.</i> , as amended from time to time.
Governing Body	“Legislative body”, voting members attending town meeting.
Governmental	The ruling government power in a political society, and the apparatus through which a governing body functions and exercises authority.
Group Home	Group homes are residences for a variety of special populations in need of supervised living facilities.

Individuals residing in group homes may be, but are not limited to, mentally or physically disabled, recovering substance abusers, teenage mothers, or victims of domestic violence.

Health Care Clinic

“Health Care Clinic” means a place and/or building, or portion thereof, which is used or is intended for providing health services including prevention, diagnosis, treatment, or rehabilitation. The term includes dental offices, doctors’ offices, and sports medicine facilities. The term does not include those uses as classified as a health care facility.

Health Care Facility

“Health Care Facility” means a place and/or building, or portion thereof, whether public or private, excluding federal facilities, whether organized for profit or not, that is used or is intended to provide health services, medical treatment, or nursing, rehabilitative, or preventative care to any person or individuals. The terms does not include offices of private physicians or dentists, The term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, and adult day-care centers as defined in State law.

Heavy Manufacturing

The use of real estate, permanent buildings or structures which involves a process or manufacturing assembly which may possibly create noise, smoke, fumes, vibrations or odor outside of the building or structure in which the use is to take place on the property. This would include manufacturing, compounding, assembly or treatment of goods and products, with all goods and materials stored in enclosed buildings.

Home Occupation

A home occupation is a business conducted in a residential single-family dwelling unit or accessory structure that is incidental and subordinate to the primary residential use by the full-time permanent occupant of the dwelling. The term “home

occupation” shall include both professional and personal services. It must be compatible with the residential use of the property and surrounding residential uses.

An occupation or profession which is carried on in no more than 25% of the total square footage of a single-family dwelling unit that is incidental and subordinate to the primary residential use by the full-time permanent occupant of the dwelling, which employs no more than two (2) persons other than family members residing in the home.

Hotel/Inn

A commercial building or group of buildings built to accommodate, for a fee, travelers or other transient guests, who are staying for a limited duration, with sleeping rooms with or without cooking facilities; each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or a common corridor or hallway. It may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Inland Wetland

Areas enclosed by the normal high water mark of inland waters and areas otherwise identified on the basis of soils, vegetation, or other criteria as inland wetland including but not limited to swamps, marshes or bogs.

Junkyard/Automobile Graveyard

As defined in 30-A MRSA Section 3752 as amended from time to time.

- a. Automobile Graveyard – a yard, field or other area used as a place of storage for three (3) or more un-inspected, unregistered, unserviceable, discarded, worn-out or junked automobiles, or other motorized vehicles and trailers. This provision does not apply to serviceable, but unregistered vehicles offered for sale by a state-licensed automobile dealer.
- b. Junkyard – A yard, field or other area used as a place of storage for discarded, worn-out or junked plumbing, heating supplies, household appliances, furniture, discarded scrap and junked lumber, mobile homes, boats and trailers, old or scrap copper, brass, rope, rags, batteries, paper

trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material, including garbage dumps, waste dumps and sanitary land fills.

Landscaping

Activity which leads to improving the appearance of an area of land, as by planting trees, shrubs, or grass, or altering the contours of the ground, as gardening or landscape architecture.

Light Manufacturing

The use of real estate, permanent buildings or structures which involves a process or manufacturing assembly which will not create noise, smoke, fumes, vibrations or odor outside of the building or structure in which the use is to take place on the property. It includes manufacturing, compounding, assembling of treatment of goods and products, with all goods or materials stored in enclosed buildings.

Lot

A lot being defined as to the district; a parcel of land occupied by, or designated to be developed for one (1) building or principal use and the accessory building or uses incidental to such building, use or development, including such open spaces and yards as are designed and arranged or required by ordinance or Land Use Code. Also, a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for the purpose of transfer of title.

Lot Area

The total horizontal area of the lot lying within the lot lines, provided that no area of the land lying within any street shall be deemed a portion of any lot abutting a street, shall be measured to the edge of the right of way.

Marina

A publicly or privately owned facility which serves five (5) or more boats as a commercial enterprise or in association with a club, and which provides one or more of the following: boat storage, boat launching, sale of marine supplies and services, bait and tackle shops, marine fuel services, sales of water

	craft and related accessories, related mooring, docking and slip facilities, rental docking or tie-up services, related piers, ramps and floats, and accessory parking areas.
Mobile Home Park	A parcel of land under unified ownership approved by the Town of Stockton Springs for the placement of three (3) or more manufactured homes.
Mobile Homes	A structure, transportable in one or more sections, which is eight (8) body feet or more in width and thirty-two (32) body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. Such structures not bearing the State of Maine Seal of Approval for Industrialized (manufactured) Housing or meeting the United States Department of Housing and Urban Development standard under the National Manufactured Housing Construction and Safety Standards Act of 1974 shall not be considered a dwelling unit.
Motel	An establishment that provides lodging and parking and in which rooms are accessible from an outdoor parking area.
Multi-Family Dwelling	A building containing three or more dwelling units; such building being designed exclusively for residential use and occupancy by three or more families living independently of one another, with the number of families not exceeding the number of dwelling units. It will include permanent and separate provisions for living, sleeping, eating, cooking and sanitation per the number of dwelling units in the building.
Municipal (Governmental) Use	Buildings, structures, premises, and utilities infrastructure declared a municipal use by the Selectmen.
Museums	A building, place or institution devoted to the

acquisition, conservation, study, exhibition and educational interpretation of objects having scientific, historical, or artistic value.

Non-conforming

A building or other structure, use or lot existing prior to the enactment of this Ordinance, which by reason of design, size or use, does not conform with the requirements of the district or districts in which it is located.

Non-resident

A migratory person residing in the town for less than six (6) months.

Non-resident Temporary Accommodations I

(Also referred to as “Bed and Breakfast”) includes building(s) where accommodations are provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of three (3) guests rooms and six (6) guests at any one time, not including children of the paying guests under twelve (12) years of age. Breakfast is the only meal, if any, to be provided for compensation.

Non-resident Temporary Accommodations II

(Also referred to a small inns, Bed and Breakfasts and boarding houses) Includes building(s) where accommodations are provided for compensation, where a maximum of ten (10) guest rooms are provided at any one time and meals, if provided, are provided to guests only.

Non-resident Temporary Accommodations III

(Also referred to as motels, hotels and inns) Includes buildings where accommodations are provided for compensation, and meals may be provided to guests. Accessory uses such as restaurants, cocktail lounges, gift shops, conference rooms and recreational facilities such as swimming pools and game rooms may be included on the premises. This type of accommodations and its accessory uses are subject to Site Plan Review.

Non-resident Temporary Accommodations IV

(Campgrounds and RV Parks) Any land area specifically designed and developed, containing two or more individual campsites which accommodate that segment of the traveling public seeking

	temporary camping accommodations for tents, recreational vehicles and/or towed travel trailers for compensation. Accessory uses, subject to Site Plan Review, include camper services and facilities such as shower, sewer and laundry facilities, electricity, fresh water, propane sales, ice, outlet for camping supplies and equipment and recreational services.
Open Space	The area of a lot not used for structures, driveways, parking spaces, or accessory buildings.
Parks and Recreation	Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife nature preserves, along with any necessary accessory facilities, rest rooms, bath houses and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.
Performance Standards	A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and restrictions by means of minimum criteria which must be met by users in order to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety, and welfare of the citizens of Stockton Springs,
Person	Any individual, partnership, firm, association, corporation or organization.
Personal Service Business	Any business or establishment which provides a service of non-retail nature for hire by others, conducted through the application of some specialized knowledge, training, skill or talent, or through the employment of some special action or work. By definition, a service business does not entail outside storage of goods or equipment nor utilize vehicles larger than 9000 lbs. gross vehicle weight (GVW)

Piers, Docks, Wharves, Breakwaters, Causeways, and Uses Projecting into Water Bodies	A structure either temporary, which remains in the water for less than seven months in any period of twelve consecutive months; or permanent, which remains in the water for seven months or more in any period of twelve consecutive months. Also, refer to current Shoreland Zoning Ordinance.
Principal Structure	The structure in which the primary use of the lot is conducted.
Professional Office	Place of business maintained by one or more individuals who have recognized professional accreditation in their field, which requires an appropriate academic degree, but does not include any manufacturing, commercial, or industrial activity.
Public & Semi-Public Facility	Any facility, including, but not limited to, buildings property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body, non-profit, or public entity to which the public has access during normal business hours.
Public Use	A publicly owned tract of open space or a facility dedicated and used by the public, for the conduct of public recreation or business to which the public has access during normal business hours.
Recreational Opportunities	A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, not to include adult entertainment or commercial recreational opportunities.
Residential Dwelling Unit	A room or group of rooms designed and equipped exclusively for use as a permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes.
Residential Housing	Any building or structure or portion thereof designed or used for residential purposes, excluding hotel, inn, rooming house, tourist home, institutional

home, or residential club. The term shall include manufactured and prefabricated homes, but not recreational vehicles.

Restaurant

An establishment whose principle business is the sale of food and/or beverages to the consumers in a ready to consume state, and whose principle method of operation includes one or both of the following characteristics:

1. Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which the food and beverages are consumed.
2. A cafeteria type operation where food and beverage generally are consumed within the restaurant building.

Retail Business

Any business, housed in a permanent structure, engaged primarily in the sale or resale of goods and services to the consumer for direct consumption and/or use.

Reviewing Authority

The individual or body authorized to review - Code Enforcement Officer, Planning Board or Zoning Board of Appeals.

River

Any free flowing body of water from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

Road

A route or track consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Salvage and Recycling Businesses

A commercial business whose operation recycles for profit cars, appliances, and other recyclable materials; not to include automobile graveyards and junk yards.

School

The educational use of an area of land, whether primary, secondary, college or vocational nature.

Setback	The minimum required horizontal distance from a lot line or edge of the right of way, or the normal high waterline of water bodies, tributary streams or the upland edge of coastal or freshwater wetlands, to the nearest part of a building or structure, including porches, steps, decks and railing, driveways or regulated object or area.
Shellfish Sales	A business housed in a permanent structure engaged in the sale of shellfish to consumers or wholesalers.
Shoreland or Shoreland Area	Refer to Stockton Springs current Shoreland Zoning Ordinance.
Sign	A structure, building wall, or other outdoor surface, or any device used for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, or to display, identify and publicize the name and product or service of any person.
Single and Separate Ownership	The ownership of property by any person whose ownership is separate and distinct from that of any adjoining property.
Single-Family Dwelling	A dwelling designed for and occupied by not more than one family and having no roof, wall or floor in common with any other dwelling unit on an individual lot. It will include permanent provisions for living, sleeping, eating, cooking and sanitation. The term shall include manufactured and prefabricated homes, but not recreational vehicles. To also include Accessory Living Quarters, and Group Homes.
Small Scale Business	A retail business with a ground floor area of less than 3,000 square feet, such as a gift shop.

Structure	Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks, raised walkways, handicapped access ramps and satellite dishes.
Telecommunications Facility	All equipment (including repeaters) with which a telecommunications provider broadcasts and receives radio-frequency waves which carry their services and all locations of said equipment or any part thereof. This facility may be sited on one or more towers or structures owned and permitted by another owner or entity.
Two-family dwelling	A detached or semi-detached buildings used for residential occupancy by two families living independently of each other. It will include permanent and separate provisions for living, sleeping, eating, cooking and sanitation.
Vehicle	Any motor-driven conveyance designed to carry its operator.
Warehousing and Storage Facility	A commercial structure that acts as a terminal facility for handling freight with or without maintenance facilities, or a structure for the storage of products, goods or materials of others for a fee.
Wholesale	The sale of goods or merchandise to retailers; industrial, commercial, institutional or other professional users or to other wholesalers and related subordinated services. Involves acting as an agent or broker. Also the resale (sale without transformation) of new and used goods to retailers. Wholesalers frequently physically assemble, sort and grade goods in large lots, break bulk, repack and re-distribute in small lots.
Wholesale Business	Any business housed in a permanent structure,

Establishment	engaged in the sale of goods in large amounts to retailers or jobbers rather than directly to consumers.
Wild Life Habitat	Areas identified by the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the municipality's Comprehensive Plan.
Yacht Club	An organization for the purpose of encouraging and directing the sport of yachting.

APPENDIX A

ALLOWABLE USES FOR LAND USE ACTIVITY CHART

Y = No permit required
 N = Not permitted
 N/A = Not applicable
 C = CEO
 P = Planning Board

TS = Town Square District
 V1 = Village 1 District
 V2 = Village 2 District
 R1 = Residential 1 District
 R2 = Residential 2 District
 R3 = Residential 3 District
 MU = Mixed Use District
 CM = Commercial District
 R = Rural District
 C = Conservation

Land Use Category	TS	V1	V2	R1	R2	R3	MU	CM	R	C
1. Structures										
A. Single, Residential housing	C	C	C	C	C	C	C	C	C	N
a. Accessory	C	C	C	C	C	C	C	C	C	N
b. Group	C	N	C	C	C	C	C	C	C	N
c. Accessory Living Quarters	C	C	C	C	C	C	C	C	C	N
B. Multi-Family residential	P	P	P	P	P	P	P	P	P	N
C. Two-family residential	C	C	C	C	C	C	C	C	N	N
D. Governmental	P	N	P	N	P	N	N	N	N	P
E. Small, non-residential facilities for educational/scientific purposes	P	N	P	N	P	N	N	N	N	P
F. Mobile Home parks	N	N	N	P	P	N	N	N	N	N
G. Cluster housing	N	N	N	P	P	P	P	N	P	N
H. Subdivision	P	P	P	P	P	P	P	P	P	N
2. Commercial										
A. Home Occupations	C	C	C	C	C	C	C	C	C	N
B. Junkyards	N	N	N	N	N	N	N	P	N	N
C. Light Manufacturing	N	N	N	N	N	N	N	P	N	N
D. Automotive Repair (minor/major)	N	N	N	N	N	N	N	P	N	N
E. Automotive Service Station	N	N	N	N	N	N	N	P	N	N
F. Professional Offices	P	P	P	P	P	P	N	P	N	N
G. Restaurant	P	N	P	N	N	N	P	P	N	N
H. Retail Business	P	P	P	N	N	N	P	P	P	N
Land Use Category	TS	V1	V2	R1	R2	R3	MU	CM	R	C

I. Warehousing	N	N	N	N	N	N	N	P	N	N
J. Wholesale	P	N	P	N	N	N	N	P	N	N
K. Personal Service	P	P	P	P	P	N	P	P	N	N
L. Heavy Manufacturing	N	N	N	N	N	N	N	P	N	N
M. Adult Entertainment	N	N	N	N	N	N	N	P	N	N
3. Recreational										
A. Commercial										
a. Indoor	P	N	N	N	N	N	P	P	N	N
b. Outdoor	N	N	N	N	N	N	P	P	N	N
B. Non-commercial										
a. Indoor	P	N	P	P	P	P	P	P	P	N
b. Outdoor	P	N	P	P	P	P	P	P	P	P
C. Golf Courses	N	N	N	P	P	P	N	P	P	N
4. Public and Semi-public										
A. Health Facilities	P	N	P	P	P	N	N	P	N	N
B. Government	P	P	P	P	P	P	P	P	P	N
C. Schools	P	P	P	P	P	P	P	P	P	N
D. Day Care	P	P	P	P	P	P	N	P	P	N
E. Museum	N	P	N	P	P	N	N	P	N	N
5. Non-resident Temporary Accommodations I, II, III										
A. Bed & Breakfast	C	C	C	C	C	N	C	C	N	N
B. Motels, Hotels, Inns	P	N	P	P	P	N	P	P	N	N
C. Group	P	N	P	P	P	N	N	P	N	N
D. Boarding	P	N	P	P	P	N	N	P	N	N

Land Use Category	TS	V1	V2	R1	R2	R3	MU	CM	R	C
6. Non-resident Temporary Accommodations IV										
A. RV Parks, Campgrounds	N	N	N	N	N	N	N	P	N	N
7. Transportation, Roads										
A. Road Construction	C	C	C	C	C	C	C	C	C	N
B. Driveways	C	C	C	C	C	C	C	C	C	N
8. Natural Resource-based Activity										
A. Mineral Extraction	N	N	N	N	N	N	N	N	P	N
B. Forestry Operations	N	N	N	N	N	N	N	N	P	N
C. Commercial Agriculture	N	N	N	N	N	N	N	N	Y	N
9. Essential Services										
A. Gas	P	P	P	P	P	P	P	P	P	P
B. Electrical	P	P	P	P	P	P	P	P	P	P
C. Communication Facilities	P	P	P	P	P	P	P	P	P	P
D. Fuel or water supply	P	P	P	P	P	P	P	P	P	P
E. Wind Energy Development										
Type 1	N	N	C	C	C	C	N	C	C	N
Type 2	N	N	N	C	C	C	N	C	C	N
Type 3	N	N	N	N	N	P	N	P	C	N
Type 4	N	N	N	N	N	N	N	N	P	N
Type 5	N	N	N	N	N	N	N	N	P	N
F. Transmission Distribution Systems	P	P	P	P	P	P	P	P	P	P

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**Town of Stockton Springs
Lot Dimensions Chart**

	T S 5,000 sf. common septic -20,000 sf. not serviced by municipal sewer or common septic	V 1 20,000 SF	V 2 20,000 SF	R 1 One Acre	R 2 Two Acre	R 3 One Acre	MU One Acre	CM One Acre	R Three Acre
Minimum Lot Size									
Minimum Road Frontage	30'	80'	80'	100'	150'	100'	100'	100'	200'
Minimum Set Back From Edge of Road Right of Way	25 Feet	25 Feet	25 Feet	35 Feet	35 Feet	35 Feet	35 Feet	25 Feet	50 Feet
Minimum side yard set back	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet
Minimum Rear Set Back	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet	10 feet
Maximum Lot Coverage	50%	50%	50%	30%	30%	30%	30%	30%	30%
Maximum Building Height	35 Feet	35 Feet	35 Feet	35 Feet	35 Feet	35 Feet	35 Feet	35 Feet or higher subject to Site Plan Review	35 Feet
Ground Floor Maximum	3000 SF		1500 SF						
Accessory Structures From Lot Lines	10'	10'	10'	10'	10'	10'	10'	10'	10'

Districts

TS=Town Square

V1=Village 1

V2=Village 2

R1=Residential 1

R2=Residential 2

M=Mixed Uses

CM=Commercial

R=Rural

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**APPENDIX C
FEE SCHEDULE**

	Minimum Fee	Additional Costs
Residential Building	\$.15/sq. ft - Minimum \$25.00	\$25 Shoreland \$50 Floodplain
Commercial Building	\$.25/sq. ft. - Minimum \$50.00	\$25 Shoreland \$50 Floodplain
Accessory Building*	\$.10/sq. ft. – minimum \$25.00 No permit Required if less than 100 sq. ft.	\$25 Shoreland \$50 Floodplain
Industrial Building	\$.25/sq. ft. - Minimum \$60.00	\$25 Shoreland \$50 Floodplain
Change of Use	\$30	\$25 Shoreland \$50 Floodplain
Demolition	\$25.00	
Fabric Shelters	\$25.00	
Home Occupation	\$30	\$25 Shoreland \$50 Floodplain
Signs	\$20	
Driveway/Road Entrance	\$25	
Fees for porch, deck, wharf	same as building permit fees	
Earth moving < 10 cubic yards > 10 cubic yards	No fee \$25	
Site Plan Review	\$100	plus mailing & advertising
Board of Appeals	\$100	plus mailing & advertising
Subdivision Pre-application Minor Major Amendment Minor Modification	\$100 \$100 per lot \$200 per lot \$200 per lot \$100	plus mailing & advertising
Wireless Telecommunications	\$1500 New Tower \$500.00 Expansion	Requires PB Approval CEO Permits
Wind Energy Development	See Wind Energy Ordinance Appendix A	
Internal Plumbing	\$40	\$10.00/fixture plus \$10 for Town
SSWD	\$250	plus \$20 for Town

*** Seasonal (temporary) screen houses and event tents do not require a permit, but are subject to the specific Land Use Standards in the area where they are to be located.**



Town of Stockton Springs, Maine

Coastal Waters and Harbor Ordinance

Adopted by the Town of Stockton Springs on June 1990
Revised November 1992
Revised March 11, 2000
Revised February 13, 2005
Revised June 14, 2008
Revised June 19, 2010
Revised June 16, 2012

| Attested by: /s/ Christine Hassepelsis

| Title: Clerk

Town of Stockton Springs, Maine Coastal Waters and Harbor Ordinance

Section 1. PURPOSE

This ordinance is to establish regulations for marine activities occurring within or directly affecting the area within the Harbor and Coastal Waters of the Town of Stockton Springs in order to ensure safety to persons and property, promote availability and use of a valuable public resource and to create a fair and efficient framework for the administration of that resource. This Ordinance shall be subordinate to existing Federal and State laws governing the same matters and is not intended to preempt other valid laws.

Section 2. AUTHORITY

This Ordinance shall be enacted pursuant to the Municipal Home Rule powers of Title 30-AMRSA, Section 3001 and pursuant to Title 38 MRSA, Section 7: and the provisions of this Ordinance shall be interpreted in order to meet the objectives of those statutory sections.

Section 3. JURISDICTION

The area governed by this Ordinance includes all Stockton waters as defined in Section 18 of this Ordinance.

3.1 As per Maine Revised Statutes, Title 38, Chapter 1, Subchapter 1; the bottom of Stockton Springs harbor is owned by the State. Mooring sites are assigned and regulated by the Municipality. Individuals cannot purchase, own or sell any mooring site in State waters. Mooring hardware only is the property of the individual.

Section 4. HARBOR COMMITTEE

The Stockton Springs Harbor Committee is a seven (7) person board comprised of five (5) regular and two (2) alternate members who are residents of Stockton Springs, to serve on a continuing basis as a harbor management committee and as an appeal board. The Stockton Springs Harbor Committee shall also, upon request of the Selectmen, advise that body on harbor and marine related issues, including the preparation of marine/conservation plans and ordinances. The Committee shall be appointed by the Selectmen with members serving for staggered terms. The Committee shall elect from its members a Chairperson, Vice-Chairperson. By-Laws, describing the duties and responsibilities of the Committee are maintained by the Committee, subject to the approval of the Selectmen.

Section 5. HARBORMASTER

A Harbormaster shall be appointed annually by the Town Manager and affirmed by the Board of Selectmen, together with the advice of the Harbor Committee and the community's boat owners. Said appointment shall be for one year and shall run from January 1 to December 31. Certain duties and responsibilities of this office are prescribed by Title 30 MRSA. The Harbormaster has the additional duty to administer and enforce the provisions of this Ordinance with the authority granted by law and through appointment as a Constable of the Town. The Harbormaster may also call upon the Town Constable to assist in the enforcement of the provisions of this Ordinance. The Harbormaster may use the Town Office, the Selectmen and the Harbor Committee for assistance in the administrative aspects of these responsibilities and is a non-voting member of the Harbor Committee.

5.1 At the discretion of the Board of Selectmen, an Assistant Harbormaster may be appointed under the same terms and conditions as for the Harbormaster. The Assistant Harbormaster may assume the duties of the Harbormaster as described herein in the event that the Harbormaster is unable to perform same.

Section 6. PRUDENT OPERATION OF VESSELS

Vessels shall be operated in the Harbor and Coastal Waters of Stockton Springs in a reasonable and responsible manner so as not to endanger persons or property or to cause excessive wake. In no case shall speeds exceed five (5) knots while operating in mooring or occupied anchorage areas. A speed necessary to maintain steerage will be allowed.

Violations of this Section shall be enforced as set forth in Section 14 of this Ordinance. Appeals of the Harbormaster's decisions may be brought to the Harbor Committee as set forth in Section 15 of this Ordinance.

Section 7. MOORING SITES/FLOATS/DINGHY STORAGE

7.1 All applicants for mooring site, float locations and in or out of water dinghy storage will submit, in addition to the applicable fees (see 7.2 below), the following information as designated by the Harbormaster on the Stockton Springs Mooring Site Application form:

1. Name, residency and telephone numbers (both summer and winter if applicable)
2. Vessel and dinghy length, weight, draft and type (power, sail or sail/power)
3. Current and/or desired dinghy storage location.
4. Current and/or desired mooring site location
5. Riparian owner or not
6. Type, weight, scope and rigging of mooring hardware

Mooring Site Application Forms are available from the Harbormaster or at the Town Office.

Upon receipt of the application, each applicant will be notified with a reasonable length of time, in writing, by the Harbormaster of the action decided.

The Harbormaster has the authority to reject any mooring site or dinghy application, whether new or for renewal with justifiable cause.

No mooring or dinghy may be placed, moved or removed without written permission of the Harbormaster.

All floats, both commercial and private, must be registered with the Harbormaster and shall conform to the specifications set forth in the appendices of this Ordinance. All Floats shall have a mooring that meets the minimum mooring specification of twice the size of the largest boat to be tied to the float. Each float will be assigned a number and shall display same.

The maximum allowable size for any float within the Harbor shall be twelve feet by twenty-four feet (12' x 24'). The maximum size for a tie up float shall be six feet by eighteen feet (6' x 18'). Tie up floats shall be moored at both ends. No more than two boats shall be tied to a float at any time, with the exception of dinghies. Floats shall be located in an area designated by the Harbormaster, at the Harbormaster's discretion. No float shall be used in any manner inconsistent with the conditions prescribed by the Harbormaster.

Requests for floats that exceed the maximum size allowed by this Ordinance shall be made in writing to the Harbor Committee for consideration.

- 7.2 An annual fee shall be levied by the Town for each mooring site or dinghy location. The fee will be set annually by the Selectmen upon recommendation by the Harbor Committee. Annual fees shall be received by the town Office no later than March 31st of each year. If the annual fee has not been received at the Town Office by April 30th, a ten percent (10%) penalty will be assessed weekly until an amount equal to the outstanding mooring site fee is reached. At that time, if the fee is not paid, the mooring site and mooring hardware and/or the dinghy location will be considered abandoned and will become the property of the Town of Stockton Springs. Mooring site fees are not refundable.
- 7.3 The Harbormaster will maintain a Chart of the Harbor showing current mooring and dinghy locations, assignments, anchorages and designated zones.
- 7.4 The Harbormaster shall maintain a written record of the basic information on each mooring and dinghy including assigned location, identifying number, vessel description, owner's name and residency and any additional data deemed useful.

- 7.5 Each mooring and dinghy location shall be assigned an identifying number which must be marked in legible fashion on the marker buoy or log in block numerals at least three (3) inches high and of contrasting color. Dinghies shall be marked with the name of the vessel owner and/or the name of the moored vessel that the dinghy is a tender to. This marking shall be readily visible from the Town Dock adjacent to the dinghy location. Fixed water objects such as lobster cars, floats, scow, etc. will be equipped with reflective tape at least four (4) inches in diameter or width, visible from all angles (sides), installed and maintained at least four (4) feet about the water line. All such objects shall be securely moored and marked so as to cause no hazard to navigation, and be no threat to the property of others. Name and license number of the owner shall be carved or burned into a main structural member.
- 7.6 All moorings shall conform to Town of Stockton Springs Mooring System Requirements, attached hereto as Appendix A. All mooring systems shall be approved by the Harbormaster prior to being placed. Vessel and/or mooring owners shall be liable for any damage caused by faulty, inadequate or improperly designed or placed moorings.

In view of the fact that the locations outside the harbor are less protected than locations inside the harbor, the Harbormaster may require heavier gear and more scope for safety purposes.

7.7 TRANSFER OF REGISTRATION

- 7.7.1 Mooring site Registrations and dinghy locations are not transferable, except that a Stockton Springs resident may transfer his mooring site or dinghy location to an immediate family member provided that the recipient is a resident of the Town of Stockton Springs.
- 7.7.2 The Harbormaster shall be notified within five (5) days of the transfer of mooring hardware or dinghy ownership.
- 7.7.3 In the event that a different vessel owned by the same owner is to utilize an existing mooring, such change shall be approved by the Harbormaster prior to the new vessel being placed on that mooring.

7.8 INSPECTION OF MOORINGS

- 7.8.1 Each mooring must be inspected, by an approved qualified mooring inspector at least every two (2) years, or more frequently at the Harbormaster's discretion, for its conformity within the minimum mooring standards currently in effect for the Town. Any mooring not meeting the current mooring standards shall be brought into compliance immediately or before the mooring may be used again. All expenses for inspection or correction of defects or removal of the mooring shall be the responsibility of the mooring owner. Any mooring owner who fails to correct mooring hardware defects within a reasonable period of time as determined by the Harbormaster, shall lose the privilege of having that mooring site, and the defective mooring hardware is subject to removal by the Harbormaster under the same conditions as Section 7.9.1 of this ordinance.
- 7.8.2 The Harbormaster, in consultation with the Harbor Committee, shall develop and maintain a list of independent contractors possessing the knowledge, experience and equipment necessary to conduct a full, thorough and complete examination of moorings. Revision of that list shall be at the discretion of the Harbormaster after consulting with the Harbor Committee. The list shall be maintained in the office of the Harbormaster and at the Town Office and shall be available for inspection during regular business hours. Only those persons who are on the list shall conduct mooring inspections and repairs.
- 7.8.3 The mooring owner or the inspector, in his behalf, shall furnish a complete report which shall contain at a minimum the information listed in Appendix B, in writing, signed by the inspector, attesting to the date of the inspection, the name of the owner, the name of the inspector, the identity of the mooring and a statement of its condition. Any and all defects shall be noted and date by which repairs or renovations will be effected.
- 7.8.4 The Harbormaster may have inspected any moorings, its appurtenances, gear and tackle at any time, at the owner's expense. However, no more than one such random inspection of the same mooring may be made within a ninety (90) day period, unless the initial inspection under Section 7.8.1 revealed a condition requiring correction or repair.
- 7.8.5 An organization or business, one of whose purposes is the rental of moorings which, in the ordinary course of its business inspects moorings and maintains records relating thereto, may submit such records in lieu of a physical inspection; provided further that the Harbormaster shall have the authority of random inspection of any such mooring.

7.9 REMOVAL OF MOORINGS AND DINGHYS BY HARBORMASTER – ABANDONED MOORINGS AND DINGHYS

7.9.1 The Harbormaster is hereby authorized to remove or cause to be removed any mooring and/ or dinghy in Stockton Harbor, Stockton waters or waters controlled by the Town of Stockton Springs, whenever the Harbormaster shall deem it necessary, and may remove or cause to be removed any mooring which shall lie contrary to this article, rule, regulation or state statute. Prior to taking such action the Harbormaster shall make a good faith effort to attempt to notify the owner or person having care of said mooring/ dinghy and to order the owner or person to remove the mooring/ dinghy forthwith. If actual notice of the order to remove cannot be provided to the owner or person responsible for the mooring/ dinghy in an expeditious fashion, the Harbormaster may remove or cause the removal of the mooring/ dinghy at the expense of the owner. If any person, after having been ordered to comply forthwith, fails to comply, action may be undertaken by the Harbormaster as in other cases where violations occur, as provided in Sections 9.1 and 9.2 of this Ordinance.

7.10 MOORING RENTAL

7.10.1 Rental of Private Non-Commercial Moorings – Rental of privately owned moorings is prohibited.

7.10.2 Rental of Commercially Owned Moorings – Commercially owned moorings may be rented directly by their owners. The moorings shall conform, in all aspects, to the Town's specifications for moorings, as set forth in Appendix A of this Ordinance. Additionally, they shall have a permit from the US Army Corps of Engineers, with a copy on file with the Harbormaster's Office. Persons or organization engaged in commercial business, may continue to register moorings (commercial) for which they do not own boats, provided that: in the judgment of the Harbormaster and Harbor Committee, the number of mooring(s) is/are reasonable, in the best interest of the Harbor; and that there is adequate space.

7.11 PRECEDENCE OF MOORING SITES AND DINGHY LOCATION

7.11.1 The Harbormaster shall maintain a chronological list of all vessel owners requesting mooring site and/or dinghy location assignment or reassignment to a new location. Within the space available, requests for a particular location or area of the Harbor will be treated in accordance with the following priority guidelines:

1. Moorings and dinghies placed prior to and actively used as of June 1, 1999
2. Shorefront owner's request for location immediately adjacent to frontage (Riparian Rights).
3. Resident owners of fishing vessels (as defined in Section 18 of this Ordinance).
4. Resident pleasure vessel owners.
5. Non-resident owners of fishing vessels (as defined in Section 18 of this Ordinance).
6. Commercial operators with rental moorings, subject to the approval of the Harbor Committee.
7. Non-resident pleasure vessel owners.
8. Vessel owners with multiple locations.

7.11.2 At any time, at the recommendation of the Harbormaster to the Harbor Committee, the capacity of the Harbor can be declared full. At such time, the Harbormaster shall maintain a list of all applicants as per the precedence list under 7.11.1 that have not been assigned a mooring site for that year, but want to remain eligible for a future mooring site. To remain on the wait list, each applicant must up-date their request in writing annually prior to 1 April and pay a wait list fee as set by the Selectmen. If an applicant refuses a mooring site when offered one, he/she may either choose to be dropped from the list or go to the bottom of the list. If a wait list is in place, the Harbormaster in conjunction with the Harbor Committee may impose a limit on the number of non-commercial mooring sites permitted to each individual. The wait list will be available for viewing at the Harbormaster's office or the town Office during normal working hours.

7.11.3 More than one (1) commercial mooring site may be owned and used for year-round purposes as deemed appropriate by the Harbormaster pursuant to Section 7.10.2 of this Ordinance.

7.11.4 Status to moor in a designated area may be questioned or determined at any time by the Harbormaster. Appeal may be made to the Harbor Committee as necessary.

7.11.5 No mooring site or dinghy space shall be granted or renewed until all current and previously owed fees, including excise fees, mooring site fees and penalties have been received by the Town Office.

7.11.6 Future mooring site or dinghy assignments will be on an availability basis and will be granted in a manner consistent with Precedence as defined in Section 7.11.1 (see Title 38 MRSA).

7.11.7 No dinghy storage will be granted to anyone that does not have a registered mooring site in Stockton Springs.

Section 8. USE OF BOAT RAMP AND TOWN DOCK/FLOATS/ANCHORAGES

- 8.1 No vessel, vehicle, trailer, mooring gear, fishing gear, etc. shall block or be located on the Stockton Springs boat ramp longer than thirty (30) minutes without permission of the Harbormaster.
- 8.2 Time limit at any Town Dock/Floats shall be to load/unload only, and shall not exceed twenty (20) minutes. The Harbormaster may determine otherwise as traffic requires or on a bona fide emergency basis.
- 8.3 Docking time at any Town Dock/Floats shall be no longer than two (2) hours within any twenty-four hour period. The Harbormaster may determine otherwise as traffic requires or on a bona fide emergency basis. The Harbormaster may at his discretion, permit overnight docking at the Town Dock for a per-foot fee set by the Selectmen.
- 8.4 Absolutely no gear of any type, fishing/dragging gear or any other type of equipment may be left unattended at the Town Dock/Floats. All dinghies and rowboats shall be stored in designated areas. Any dinghy or rowboat left in undesignated areas will be considered abandoned.
- 8.5 No swimming will be permitted off the Town Docks/Floats.
- 8.6 Fishing is permitted as long as it does not interfere with vessel traffic to the Town Dock/Floats. Cutting of bait or cleaning of fish on the Town Dock/Floats is prohibited.
- 8.7 No type of repair, maintenance operation, storage or business activity will be conducted on the Town Docks/Floats. Work may be performed aboard a vessel tied to the Town Dock/Floats, but such work shall not be done on the town Dock/Floats itself, and must be completed within the limits established in 8.1 and 8.2 above.
- 8.8 All Town Ramps will be used for launch and haul purposes only. All obstructions will be removed immediately from the ramp, at owner's expense if appropriate.

- 8.9 No vessel should stay at anchor in the waters of the Town of Stockton Springs for a period any greater than ten (10) days without permission of the Harbormaster.

If any vessel shall be found, in the judgment of the Harbormaster, to be anchored or moored in an unsafe or dangerous manner or in such a way as to create a hazard to other vessels or to person or property, the Harbormaster may order such vessel to move or direct or undertake necessary measures to eliminate such unsafe, unauthorized or dangerous condition. Primary responsibility for compliance with such orders and directions shall rest with the owner of the improperly anchored or moored vessel or his authorized agent; in the absence of such owner or agent, said responsibility shall rest with the mooring owner or the authorized operator of the facility at which the vessel is anchored or moored. Any vessel dragging its anchor without the owner on board or in any other urgent situation, in the absence of any such responsible person, the Harbormaster may board any vessel and cause the improper situation to be corrected and the owner of the vessel shall be liable for any costs incurred by the Town of Stockton Springs in effecting such correction. The town or its officials shall be not held liable for any damage to such vessel or property that occurs during or as a result of being boarded, pursuant to this section.

- 8.10 Overnight camping is prohibited on all shoreside property controlled by the Town in Stockton Harbor.

Section 9. ABANDONED VESSELS

- 9.1 The Harbormaster is hereby authorized to remove or cause to be removed any vessel or boat from any dock in Stockton Harbor whenever the Harbormaster shall deem it necessary or may remove or cause to be removed any vessel, boat or craft which shall anchor or lie contrary to this Ordinance, rule, regulation or state statute. Prior to taking such action, the Harbormaster shall make a good faith effort to attempt to notify the owner or person having care of the vessel, boat or craft and to order the owner or person to remove the vessel, boat or craft forthwith. If actual notice of the order to remove cannot be provided to the owner or person responsible for the boat in an expeditious fashion, the Harbormaster may remove or cause the removal at the expense of the owner of the vessel. If any person, after having been ordered to comply forthwith fails to comply, action may be undertaken by the Harbormaster as in other cases where a violation occurs, as provided in Section 14.

- 9.2 No person shall cause to be abandoned any boat, vessel, cradle or craft within the confines of Stockton Harbor or the waters adjacent to the shoreline of the city. Any such objects left in the confines of the harbor which shall appear to the Harbormaster to have been unattended for a period of thirty (30) days shall be deemed abandoned. The Harbormaster, upon determining such abandonment, may order the last owner, if known, to remove such object within ten (10) days. If the last owner is unknown or uncertain, or not reasonably available for notification or determination, the Harbormaster shall attached to the abandoned property a notification ordering the object's removal within ten (10) days. If removal as provided for in this section and as ordered by the Harbormaster is not accomplished within the ten-day period, the Harbormaster may remove or cause the removal of such object at the expense of the last known owner. If such object or property is not claimed, and removal expenses are not paid by October 10th of each year, the object or property may be sold by the Town and all monies retained from the sale shall inure to the benefit of the Harbor Account.
- 9.3 The owner of any tender, skiff or dinghy tied to the Town floats that is observed by the Harbormaster to be sunk or awash for an extended period of time shall be charged a penalty bail-out fee. The Harbormaster is hereby authorized to bail out or cause to be bailed out the dinghy in question. The amount of this penalty bail-out fee shall be set by the Selectmen. The Town shall not be liable for any damage sustained by any sunk or awash tender, skiff or dinghy.
- 9.4 Any tender, skiff, dinghy or other property left in the dock area for more than thirty (30) days after the removal of the docks shall be deemed to be abandoned.

Section 10. CONSUMPTION OF ALCOHOLIC BEVERAGES

- 10.1 The Harbormaster shall post signs designating the publicly accessible areas where the consumption of alcoholic beverages shall be prohibited.

Section 11. REMOVAL OF DEBRIS

- 11.1 No person shall throw, drop, discard, deposit or dispose of any personal property or litter on property owned by the Town, including but not limited to docks, piers, floats and ramps. The Harbormaster is authorized to remove personal property or litter in violation of this Ordinance. The following civil penalties may be assessed for violations of this ordinance provision:
- A. The violator may be ordered to remove the personal property or litter or to pay the cost of removing the personal property or litter by the Town.
 - B. Penalties may be assessed by the Board of Selectmen, upon the recommendation of the Harbor Committee.

Section 12. INTERFERENCE WITH THE HARBORMASTER

- 12.1 No person shall assault, intimidate or in any manner willfully obstruct, intimidate or hinder the Harbormaster or his/her designee in the lawful performance of his/her duties.

Section 13. COMPLIANCE WITH STATE AND FEDERAL BOATING AND NAVIGATIONAL LAWS AND LOCAL ORDINANCES

- 13.1 All vessels operating with the town waters will comply with State and Federal Boating and Navigational Laws and Local Ordinances.

Section 14. PENALTIES

- 14.1 It shall be the duty of the Harbormaster, or his/her designees, to enforce the provisions of this Ordinance. If the Harbormaster shall find that any provision of this Ordinance, or any rule or regulation promulgated pursuant to its authority, is being violated, he/she shall notify the person responsible for such violation, either verbally or in writing, indicated the nature of the violation and the necessary action required to correct it. A copy of written notices shall be maintained in a permanent record.
- 14.2 When the above action does not result in the correction or abatement of the violation or nuisance condition, the Board of Selectmen, upon notice of the Harbormaster, may initiate legal proceedings, which may include seeking injunctions, imposing fines or any other action deemed necessary to enforce the provisions of this ordinance in the name of the municipality. In any such action in which the Municipality prevails, it shall be awarded attorney's fee, court costs and any other relief to which it may be entitled.

Section 15. APPEALS

- 15.1 Any and all persons aggrieved directly or indirectly by a decision, order, rule or act, or the failure to act of the Harbormaster may appeal said decision, order, rule act or failure to act. Such appeal must be in writing directed to the Harbor Committee and filed within ten (10) days of said decision, order, rule, act, or the failure to act. The appeal must state with specificity the decision, order, rule, act, or failure to act and state the reasons for appeal. The Harbor Committee, upon hearing the appeal, shall recommend to the Board of Selectmen to affirm, modify or set aside the decision, order, rule, act, or failure to act only if such is not supported by any facts or is clearly contrary to the intent and specific provisions of this Ordinance.
- 15.2 An appeal from the decision of the Board of Selectmen may be taken by the aggrieved party or parties to Maine Superior Court in accordance with Maine Rules of Civil Procedure 80B.

Section 16. SEVERABILITY

- 16.1 If any provision or clause of this Ordinance, or application thereof to any person, persons or circumstances is held invalid, such invalidity shall not offset other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, provisions of this Ordinance are declared separable.

Section 17. STATE STATUTES – ADDITIONAL REGULATIONS

- 17.1 Harbormaster's Authority – The Harbormaster shall have full authority to enforce any and all State Statutes involving Harbor related matters, specifically including the provision of Title 38 MRSA, as previously written, and as may be amended in the future, with present provisions.
- 17.2 Removal of Vessels Obstructing Anchorage – The Harbormaster shall, upon complaint to him by the master, owner or agent of any vessel, cause any other vessel or vessels obstructing the free movement or safe anchorage of such vessel to be removed to a position to be designated by him, and to cause, without complaint being made to him, any vessels anchoring with the channel lines as established by municipal authorities as provided in Title 38 MRSA, Section 2, as it may, from time to time, be amended or replaced, to removed to such anchorage as he may designate. Whoever neglects or refuses to obey the order of the harbormaster shall be guilty of a Class E crime.
- 17.3 Speed Restrictions – Whoever operates any watercraft, vessel, water skis, surfboard, similar devise or motorboat, however propelled, upon the tidewater of any municipality or upon any of the offshore waters within the jurisdiction of this State as a speed greater than is reasonable and proper having no due regard to traffic, proximity to wharves, docks, moorings or shores, and for any other conditions then existing, shall be guilty of a Class E crime.
- 17.4 Endangering Person or Property – Whoever operates any watercraft, vessel, water skis, surfboard, similar devise or motorboat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State in a manner which endangers any person or property shall be guilty of a Class E crime.
- 17.5 Operating Recklessly – Whoever operates any watercraft , vessel, water skis, surfboard, similar devise or motor boat, however propelled, upon the tidewaters of any municipality or upon any of the offshore waters within the jurisdiction of this State recklessly shall be guilty of a Class E crime.

- 17.6 Operation under the Influence of Drugs or Alcohol – Any watercraft, vessel, water skis, surfboard, similar device or motorboat, however propelled, upon the tidewaters of any municipality or upon the offshore waters within the jurisdiction of this State while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana, shall be guilty of a Class E crime.
- 17.7 Enforcement of Operating Restrictions – Every law enforcement officer in this State, Harbormasters and their deputies, shall have the authority to enforce this subchapter, and in the exercise thereof shall have the authority to stop and board any such watercraft, vessel or motorboat found in violation of said subchapter provided the infraction was initially observed within the boundaries of the Coastal Waters or the Harbor. It shall be unlawful for the operator of any such watercraft, vessel or motorboat to fail to stop upon hail from any such officer, and a violation of the same shall be punishable as provided in Title 38 MRSA, Section 282.

18. DEFINITIONS

For purpose of this Ordinance, the following terms, phrases, words and their definitions shall have the meaning given herein. When non-consistent with the context, words used in the singular include the plural. The word “SHALL” is always mandatory and not discretionary in sense. Further, any terms, phrases, words and their derivative not defined herein, shall be given that definition which is promulgated in *Webster’s New World Dictionary, Third College Edition, Copyright 1991*, on file in the Town Clerk’s Office.

Abandoned vessel:	Any vessel or watercraft for which, after a reasonable search by the Harbormaster and Selectmen, no owner(s) or master can be found.
Anchor:	Any appliance used by a vessel for anchoring purposes and which appliance is carried aboard such vessel as part of regular equipment while the vessel is underway.
Anchorage:	An area of the harbor set aside for the temporary anchoring of boats and vessels.
Assigned Mooring:	Any mooring site assigned to a specific watercraft and restricted to those watercraft denoted on the mooring site permit.
Breakwater:	Any structure that would create a safe haven for watercraft.
Channel:	An area of movement which may be determined by Federal, State or Town rule, is marked by standard US Coast Guard colors and is maintained in navigable condition by the Town.

Commercial Mooring:	Any mooring used to hold boats or floats awaiting service from a marine related business or used on a permanent basis to hold boats or floats belonging to a marine related business provided such boats or floats are actively used for specific activities related to their business.
Commercial Rental Moorings:	A mooring owned by a business which is rented or leased to a customer for a fee. Rental moorings shall have Army Corp. of Engineer permits as well as Town of Stockton Springs permits.
Commercial Vessel:	Any vessel used or engaged for any type of commercial venture, including but not limited to fishing or the carrying of cargo and/or passengers for hire, push-boats, tugs and barges.
Designee:	Any person designed by the Harbormaster to act on his/her behalf.
Dinghy	A vessel, powered or un-powered and being fourteen (14) feet or less in length, associated with a specific larger vessel and principally used for transportation from the larger vessel to a landing or other vessel. Also referred to as a “tender” or “skiff”. Dinghies do not qualify for the assignment of a mooring site.
Dock	Any fixed or floating structure which is fixed to the shore at one end, and is normally used as a point of transfer for passengers and goods and/or for mooring purposes.
Emergency	A state of imminent or proximate danger to life or property in which time is of the essence.
Fishing Vessel	A commercially registered vessel from which the owner obtains a substantial portion of his/her income from fishing.
Float	Any floating structure, not normally fixed to the shore, used as a point of transfer for passengers and goods and/or for mooring purposes.
Harbormaster	An official appointed by the Town Manager and affirmed by the Board of Selectmen and employed by the Town of Stockton Springs to enforce the provisions of this Ordinance and certain duties and responsibilities as prescribed by Title 38 MRSA.

Immediate Family Member	Parent, child or sibling by birth or adoption, including a relation of half blood or spouse.
Marina	A publicly or privately owned facility which serves five or more boats as a commercial enterprise or in association with a club, and which provides one or more of the following: boat storage, boat launching, sale of marine supplies and services, bait and tackle shops, marine fuel services, sales of watercraft and related accessories, related mooring, docking and slip facilities, rental docking or tie-up services, related piers, ramps and floats and accessory parking area.
Mooring	Any appliance used for anchoring purposes and which appliance is not carried aboard a vessel as regular equipment when underway.
Non-resident	Any person who does not qualify as a resident herein, will be classified as a non-resident.
Private Non-Commercial Mooring	A mooring owned by an individual for his/her exclusive private use for a boat owned exclusively by the individual receiving the permits. Occasional use by friends may be allowed when approved in advance by the Harbormaster.
Qualified Mooring Inspector	A person, including a scuba diver, who satisfies the harbormaster that he/she is qualified to inspect mooring tackle as to condition and size. Qualifications shall be judged by experience in installing and inspecting moorings, familiarly with mooring tackle, including the size and kind of mooring tackle needed for safe mooring of given sizes of vessels and familiarity with the mooring regulations of the Town of Stockton Springs.
Resident	For purposes of assessing mooring site fees and establishing mooring site precedence, a resident is any person who occupies a dwelling within Stockton Springs for more than 180 days in a calendar year, or who pays real estate taxes and boat excise tax to the Town of Stockton Springs.
Riparian Owner	The owner of a parcel of land with shore frontage in Stockton Springs.
Shall	Required and mandatory, in contradiction to “may” which means to permit or that which is permissible.
Stockton Waters	Any water located within the boundaries of the Town of Stockton Springs, either inside or outside of Stockton Harbor, and/or under the control of the Town of Stockton Springs.

Vessel	The word “vessel” as used herein shall include all boats of all sizes powered by any source whatsoever, i.e. engine, sail or hand, including Personal Watercraft.
Watercraft (craft)	Same as vessel.
Stockton Harbor	The area designated as “Harbor” on the Chart of the Harbor maintained in the Harbormaster’s Office.

APPENDIX A

MOORING SYSTEM HARDWARE REQUIREMENTS

MOORING DEVICE: Mushroom anchor, granite block, machine-mixed high density concrete block, or equivalent device when approved by the Harbormaster, of a weight as specified below.

TOP CHAIN: 30 Feet long, minimum size as specified below.

BOTTOM CHAIN: 20 Feet long, minimum size as specified below.

PENNANT: Minimum $\frac{1}{2}$ the length of the vessel, of a minimum size as specified below; shall be three-strand nylon, or braided nylon core with polyester sheathing, and shall be attached to the upper half of a correctly sized swivel. Proper chafing protection shall be fitted where the pennant contacts the vessel.

SWIVEL: Each mooring shall have at least one swivel at the connection between the top chain and the mooring buoy. Additional swivels are optional.

BUOYS: All moorings shall be numbered, as assigned by the Harbormaster. Numbers shall be of adequate size, and of a contrasting color to be clearly seen on a floatable, visible US Coast Guard approved mooring buoy.

MINIMUM STANDARDS:

VESSEL LENGTH	GRANITE OR EQUIV.	MUSHROOM ANCHOR	BOTTOM CHAIN	TOP CHAIN	PENNANT
Under 9'	500 LBS	150 LBS	3/8"	1/4"	1/2"
10' to 19'	1000 LBS	200 LBS	5/8"	3/8"	5/8"
20' to 30'	1500 LBS	300 LBS	5/8"	1/2"	5/8"
31' to 35'	2000 LBS	350 LBS	5/8"	1/2"	3/4"
36' to 40'	2500 LBS	400 LBS	3/4"	1/2"	1"
41' to 50'	3000 LBS	500 LBS	7/8"	5/8"	1"

Over 50' – see the Harbormaster for specifications and approval.

These standards are minimums, and may be altered by the Harbormaster.

APPENDIX B

MOORING INSPECTION REPORT REQUIREMENTS

- a) Type, size and condition of the mooring anchor. Staple or shank eye condition.
- b) Bottom Chain Size, length and condition.
- c) Top Chain Size, length and condition
- d) Size and condition of all shackles and swivels (Shackles must be one size larger than adjacent chain)
- e) Mooring Pennant Size, length and condition
- f) Condition of the Mooring Ball and its markings (Ball must be white with blue stripe and be marked with mooring number and vessel or owner's name)
- g) A short narrative indicating the overall conditions found with respect to the serviceability of the mooring for a two year time period.
- h) A final statement indicating the inspector's finding that the mooring appears safe or unsafe for the intended use and/or recommended corrective measures to be taken.



Town of
Stockton Springs

Maine

P.O. Box 339

Stockton, Springs, ME 04981

MINERAL EXTRACTION ORDINANCE

Of the Town of Stockton Springs

Attested: Christina M. Hassapelis
Date: April 22, 2009

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MINERAL EXTRACTION ORDINANCE

Sect. 1 Title

This Ordinance shall be known and may be cited as the Mineral Extraction Ordinance of the Town of Stockton Springs, Maine and will be referred to herein as "this Ordinance".

Sect. 2 Purpose

The purpose of this Ordinance is to establish minimum removal and reclamation standards, and municipal procedures intended to regulate the removal, processing and storage of topsoil, loam, rock, flat rock, sand, gravel, or other similar materials, other than metallic materials. These standards and procedures are intended to protect the public health, safety, and general welfare; and to minimize the adverse impact of extraction to the town, abutting owners, citizens of the town, and wildlife and natural resources by:

- A. Preserving and protecting surface and groundwater quality and quantity;
- B. Preserving the value of property;
- C. Assuring that mineral exploration and extraction activities are compatible with permitted uses in that particular zone;
- D. Assuring protection of wildlife and wildlife habitat; and
- E. Protecting the scenic quality of Stockton Springs, its environment and its residents.

ARTICLE II – AUTHORITY, APPLICABILITY & ADMINISTRATION

Sect. 1 Authority

This ordinance is adopted pursuant and consistent with Title 30-A MRSA, Sections 3001 and 3015 and may be known and cited as the "Mineral Extraction Ordinance" of Stockton Springs.

Sect. 2 Administration

The provisions of this Ordinance shall be administered by the Town of Stockton Springs's Planning Board and enforced by the Town of Stockton Springs's CEO and Select Board, who will establish, after notice and hearing, and, from time to time, revise a fee schedule for the various applications and permits required by this Ordinance.

Sect. 3 Effective Date

This Ordinance shall be effective **immediately** after its adoption by vote of eligible voters of the Town of Stockton Springs, Maine at a town meeting.

Sect. 4 Applicability

- A. The provisions of this Ordinance shall apply to all mineral operations (MEOs), except metallic minerals, within the Town of Stockton Springs, Maine, as described in Article 1, and as listed below, unless exempted in Article III.
 - 1. Existing operations.
 - 2. Expansion of existing operations.
 - 3. New operations
- B. This ordinance does not apply to "inactive" mineral extraction operations defined as (1) mineral extraction that has ceased for twelve (12) consecutive months prior to the adoption of this Ordinance, and (2) a mineral extraction operation that was not registered pursuant to Article IV. 1. A. within twelve (12) months after the adoption of this Ordinance. No inactive mineral extraction operation shall be resumed until the owner or operator obtains a new permit, pursuant to Article IV. 3. for the entire affected area, except those portions previously reclaimed.
- C. Mineral extraction operations (MEOs) less than one acre are allowed as a permitted use with Planning Board approval in the following zones: Rural Zone.

MEOs over one (1) acre or that include processing are allowed as a permitted use with Planning Board approval in the Rural Zone and Aquifer Protection Overlay.

MEOs are prohibited in the following zones: Residential Zone, Recreational Zone or Mixed Use.

ARTICLE III – EXEMPTIONS

This Ordinance shall not apply to the following:

- A. Mineral exploration whose sole purpose is the determination of the nature and/or extent of mineral resources, accompanied by hand-sampling, test boring, or other methods which create minimal disturbance. Test holes shall be filled in immediately after use:
- B. MEOs that affect less than five thousand (5000) square feet of surface area, or the removal or handling of less than two hundred (200) cubic yards of material in less than twelve (12) months;

- C. Storage or Stockpiles of winter abrasives (sand) used for the maintenance of private or public roads. This applies to the stockpile or storage area itself and not any associated mineral extraction activity or area;
- D. Removal or filling of material incidental to construction, alteration or repair of a structure, or in the landscaping incidental thereto;
- E. Construction of farm and fire ponds, and water management berms; and
- F. Inactive areas where previous mining had last occurred at least 12 months prior to the adoption of this Ordinance.

ARTICLE IV – APPLICATION

Sect. 1 Existing Operations

- A. Within one hundred and eighty (180) days of the approval of this Ordinance, all MEOs existing as of that date, shall be registered with the Planning Board, and submit the following:
 - 1. Registration fee as listed in the Town of Stockton Springs Fee Schedule
 - 2. Names and addresses of the current owner of the MEO and the operator, and a copy of the deed or lease, if the operator is not the property owner.
 - 3. Evidence that the MEO qualifies as an existing operation, a location map and site plan drawn to scale showing property boundaries, stockpile areas, existing reclaimed and unreclaimed lands, proposed maximum acreage of all affected lands, all applicable private drinking water supplies or public drinking water sources and all existing or proposed solid waste disposal areas; a description of the parcel including size and deed description, a copy of the lease or other document showing that an operator who is not the owner has a legal right to excavate on the property. The names and addresses of abutting property owners, a statement signed and dated by the owner or operator certifying that the MEO will be operated in compliance with this ordinance.

If a Notice of Intent to Comply has been filed or will be filed within 120 days of the effective date of this ordinance, and approved by the State of Maine Department of Environmental Protection a copy of said document shall be sufficient to comply with the requirements listed above.

A site location of development permit approved by the Board of Environmental Protection shall also suffice for the requirements listed above.

- B. Any operation not registered, or which fails to qualify to be registered, pursuant to this section, shall be deemed closed, and may not operate, after such 180 day period. If operations continue or resume after such 180 day

period the owner or operator shall be subject to the civil penalties allowed in 30-A M.R.S.A., Section 4452 assessed for each day after the 180-day period.

Sect. 2 Expansion of existing Operations

A. Requirements

No MEO existing at the time of passage of this Ordinance may expand beyond existing state permitted boundaries without first obtaining an Expansion of Existing Mining Permit from the Planning Board. For operations less than five (5) acres in active excavation area as of the effective date of this ordinance, expansion is defined as before an excavation exceeds 5 acres in reclaimed and un-reclaimed land. For operations larger than five (5) acres, expansion is defined as before an excavation exceeds 10 acres in reclaimed and un-reclaimed land. Before expanding an MEO beyond an area that exceeds a total of 10 acres of reclaimed and un-reclaimed land and before each additional 10-acre expansion, the owner or operator shall notify the planning board of the owner's or operator's intent to expand and must request an inspection. The inspection shall be carried out by the town of Stockton Code Enforcement Officer within 30 days of the request and a report shall be presented to the planning board within 15 days of the inspection. The operator may continue excavation activities after 45 days unless the CEO has issued a stop work order. The failure of the CEO to conduct a site inspection within 30 days is not a sufficient basis for a stop-work order.

B. The applicant shall submit the following to the Planning Board:

1. Application fee as listed in the Town of Stockton Springs Fee Schedule.
2. Names and addresses of the current owner of the MEO and the operator, and a copy of the deed or lease, if the operator is not the property owner.
3. A site plan, prepared by a licensed surveyor, showing the following:
 - i. Date plan prepared, scale of drawings, with north arrow (indicate true or magnetic).
 - ii. Boundaries of land showing lot lines, total acreage, existing and proposed excavation areas, structures on property, anticipated depth and height of final excavation, areas to be used for storage of topsoil and other overburden, location of proposed hazardous material storage areas, location of public and private streets, parking areas, roadways and rights of way, location of proposed access roads, exposed ground water on site, all temporary and permanent structures located on the property.
 - iii. A plan showing how security at the site will be controlled.
 - iv. Location of residences and wells within 200 feet of property boundaries that were in existence at the time of application.

- v. Blasting plan pursuant to MRSA Title 38 490-Z (O).
- vi. A plan showing, in addition to location of hazardous materials, provisions for safe storage of such material. No hazardous materials shall be located or stored such that they will enter the ground and surface water.
- vii. An erosion and sedimentation control plan, prepared with standards contained in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, as amended.
- viii. A reclamation plan pursuant to Section 2-13 of Article V of this Ordinance.

Sect. 3 New Operations

A. The applicant shall submit the following to the Planning Board:

1. A site plan, prepared by a licensed surveyor, showing the following:
 - i. Date plan prepared, scale of drawings, with north arrow (indicate true or magnetic).
 - ii. Boundaries of land showing lot lines, total acreage, existing and proposed excavation areas, structures on property, anticipated depth and height of final excavation, areas to be used for storage of topsoil and other overburden, location of proposed hazardous material storage areas, location of public and private streets, parking areas, roadways and rights of way, location of proposed access roads, exposed ground water on site, all temporary and permanent structures located on the property.
 - iii. A plan showing how security at the site will be controlled.
 - iv. Location of residences and wells within 200 feet of property boundaries that were in existence at the time of application.
 - v. Blasting plan, if any.
 - vi. A plan showing, in addition to location of hazardous materials, provisions for safe storage of such material. No hazardous materials shall be located or stored such that they will enter the ground and surface water.
 - vii. An erosion and sedimentation control plan, prepared with standards contained in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, as amended.
 - viii. A reclamation plan pursuant to Section 2-13 of Article V of this Ordinance.
 - ix. A hydro geological evaluation, prepared by a qualified professional, which shows the depth of ground water throughout the site.
 - x. A traffic study which sets forth what the maximum estimated volume of traffic into and out of the MEO will be, which describes the kinds of

trucks and equipment which will be going into and out of the MEO, which describes any existing or potential traffic hazards on roads servicing the site, and applicant's plans to address them, and which describes the ability of such roads, physically to withstand the additional traffic generated by the site. The traffic study shall consider the actual existing traffic condition in the vicinity of the MEO.

Sect. 4 Wavier of Submission

Where the Board makes written finding of the fact that there are special circumstances of a particular MEO such as but not limited to operations permitted by the Maine Department of Environmental Protection under, Site Location of Development (MRSA) Title 481 through 490, Performance Standards for excavation for borrow, clay, topsoil or silt (MRSA) Title 38, Section 490-A through 490-N as amended and Performance standards for quarries (MRSA) Title 38, Section 490-W through 490 EE as amended, and any variances from the standards of the aforementioned articles thus approved by the commissioner, and in MEOs that affect an area less than one (1) acre and over five thousand (5000) square feet, it may waive portions of the submission requirements, providing the public health and safety and welfare are protected, and waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, or this Ordinance.

Sect. 5 Application Procedures

A. Application forms for MEOs shall be provided by the Town of Stockton Springs, and submitted to the CEO, who will submit them to the Planning Board within *seven* days.

1. Within thirty (30) days of receiving the application, the Planning Board shall notify the applicant whether the application is complete, or if incomplete, the additional material needed for completion. Determination of completeness by the Planning Board in no way binds the Board as to the adequacy of the application to meet the criteria of the Ordinance.
2. The application shall be accompanied by a fee as listed in the Town of Stockton Springs Fee Schedule

B. Public Hearing

Mineral extraction applications for new operations shall require a Public Hearing and expansions of existing operations may require a Public Hearing. At the expense of the applicant the Planning Board shall:

1. Advertise a Public Hearing ten (10) days in advance in a local newspaper, and post notices in appropriate places.
2. Notify by certified mail at least ten (10) days in advance of the Public Hearing each abutting property owner of the property for which application is being made.

C. Planning Board Decision on the MEO Activity Application

1. Within thirty (30) days of a Public Hearing, or within sixty (60) days of having received a complete application, the Planning Board shall issue a decision that the various standards for MEOs have been met, granting or denying approval of the proposed MEO activity, or approving, with conditions on such terms as it may deem advisable, to satisfy this Ordinance. In all instances, the burden of proof shall be on the applicant.
2. Upon approval of the MEO permit, the Board shall sign all five (5) copies of the of the final site plan. The site plan copies shall be distributed to:
a) the applicant, b) the Planning Board, c) the tax assessor, d) the CEO, and e) the Town.
3. Approval, by the Planning Board, of an MEO, does not show evidence of acceptance, by the Town of Stockton Springs, of any road, easement, or open space on such plan.

Sect. 6 Inspections

Annual Inspections

The CEO, or his/her designee, shall conduct an annual inspection prior to the anniversary date of the original permit, to determine whether the permit holder has complied with, or deviated from, the approved plan. An annual compliance fee is required as listed in the Town of Stockton Springs Fee Schedule. Reports shall be provided to the Planning Board, Select Board, and permit holder. In case of non-compliance, the CEO may issue a STOP WORK ORDER, EXCEPT FOR REMEDIAL ACTION, until such time as compliance is achieved.

Sect. 7 Conditions and Limitations

A. General

Before a mineral extraction activity begins, the applicant shall obtain all applicable permits required by town, state, or federal regulations, laws, or ordinances regulating such developments. Violation of other permits necessary for operation shall be considered a violation of this Ordinance.

Before a Final Plan has been approved, the following is not permitted:

1. No material from any MEO may be sold.
2. Development of the infrastructure of the MEO is not permitted, including buildings, roads, and utility installations.

B. Expiration

Mineral extraction permits shall expire one (1) year from the date of issuance, unless the mineral extraction activity has commenced.

C. Plan Revisions

Plan revisions, after approval, shall be made as provided for in Article VII, Section 2, of this Ordinance.

D. Expert Consultant

In the event the CEO and/or Planning Board require expert consultation, the charges for same shall be the negotiated among the applicant/operator, Planning Board, and the CEO.

E. Transfer of Mineral Extraction Permit

When an MEO ownership is transferred, within 30 days:

1. The transferor shall notify the Planning Board of the transfer,
2. The transferee shall file a Notice of Intent to Comply similar to that required by the MDEP – 38 M.R.S.A. 490 –C (borrow, clay, topsoil, or silt excavations) and 490-Y (quarries), and
3. The transferee must provide a performance guarantee pursuant to Article VI. Section 1 of this Ordinance.

ARTICLE V – PERFORMANCE STANDARDS

Sect. 1 General Requirements

- A. Mineral extraction operations shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this article conflict with specific provisions of State laws or other town ordinances, the stricter provisions shall prevail.
- B. The owner and/or operator of a mineral extraction activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructures, structures and their sites.
- C. In all cases, the applicant shall have the burden of proof that all requirements, standards, and conditions of this Ordinance and subsequent approval are met.
- D. When the CEO and/or Planning Board determine there is a need for testing or measurements of standards, all reasonable testing shall be at the town's expense.

Sect. 2 Performance Standards

- A. Unless otherwise noted, and not required in the application requirements, these standards apply to all MEOs over 5000 square feet.
- B. Existing MEOs, after registering with the Town, may continue to operate at their present permitted size and not be regulated by the standards that apply to expansions and new operations.
- C. The owner or operator must comply with the performance standards in this section unless a variance from the performance standards has been approved

by the Maine Department of Environmental Protection and the Town of Stockton Springs Planning Board.

- 1. Significant wildlife habitat.** Affected land may not be located in a significant wildlife habitat as defined in Title 38 M.R.S.A. Section 480-B, or in area listed pursuant to the Natural Areas Program, Title 12, Section 544.
- 2. Solid waste and sewage disposal.** Solid waste, including stumps, wood waste and land-clearing debris generated on the affected land must be disposed of in accordance with Maine Department of Environmental Protection (MDEP) Regulations, Chapter 13 including any rules adopted to implement those laws.
- 3. Groundwater protection.** To provide an adequate buffer for ground water and allow for filtration of impurities from surface water, excavation may not occur within 5 feet of the seasonal high water table.
 - a. A benchmark sufficient to verify the location of the seasonal high water table must be established and at least one test pit or monitoring well must be established on each 5 acres of un-reclaimed land.
 - b. For new MEOs of five (5) acres or more, a hydro geologic evaluation performed by a qualified professional, which shows the depth of groundwater throughout the site.
 - c. Separations between excavations and private and public water sources shall conform to MDEP standards contained in 38 M.R.S.A. 490-D, Performance Standards for Excavations for borrow, clay, topsoil or silt, or 38 MRSA 490-Z Performance Standards for Quarries.
 - d. Refueling operations, oil changes, other maintenance activities requiring the handling of fuels, petroleum products and hydraulic fluids and other on site activity involving storage or use of products that, if spilled, may contaminate ground water, must be conducted in accordance with the Department of Environmental Protection's spill prevention, control and countermeasures plan and follow Performance Standards for the Storage of Petroleum Products as outlined and included in MDEP's Chapter 378 as amended. Petroleum products and other substances that may contaminate groundwater must be stored and handled over impervious surfaces that are designed to contain spills. Routine maintenance operations are allowed for fixed equipment such as screeners, crushers and wash facilities provided that precautionary measures such as portable drip pans or vacuum devices are used.
 - e. Crankcase oil, hydraulic fluids, or similar products shall not be changed, stored, or disposed of within any work site within the Aquifer

District unless specifically covered in an SPCC Plan developed in accordance with MDEP regulations.

4. **Natural buffer strip.** Existing vegetation within a natural buffer strip may not be removed. If vegetation within the natural buffer strip has been removed or disturbed by the excavation or activities related to the mineral extraction operation prior to submission, that vegetation must be reestablished as soon as practical.
5. **Protected natural resources.** A natural buffer strip must be maintained between the working edge of an excavation and a river, stream, brook, great pond, coastal wetland or freshwater wetland as defined in Title 38 M.R.S.A, Section 480-B. The width requirements for natural buffer strips are as follows:
 - a. A natural buffer strip at least 100 feet wide must be maintained between the mineral extraction operation and the normal high water line of a great pond classified as GPA, a river flowing to a great pond classified as GPA.
 - b. A natural buffer strip at least 75 feet wide must be maintained between the working edge of the excavation and any river, stream, brook, coastal wetland or significant wildlife habitat contained within a freshwater wetland consisting of or containing:
 - (1) Under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, except for artificial ponds, or impoundments; or
 - (2) Peat lands dominated by shrubs, sedges and sphagnum moss.

For the purpose of this subsection, the width of a natural buffer strip is measured from the upland edge of a floodplain wetland. If no floodplain wetlands are present, the width is measured from the normal high water mark of the river, stream or brook. The width is measured from the normal high water mark of a great pond and upland edge of a freshwater coastal wetland.
6. **Public and private roads.** A natural buffer strip at least 100 feet wide must be maintained between the working edge of an excavation and any public road, or right-of-way and a strip at least 50 feet wide must be maintained from the edge of any private road or right-of-way.
7. **Property boundary and buffers.**
 - a. A natural buffer strip at least 100 feet wide (quarries) and 50 feet wide (excavations for borrow, clay, topsoil or silt) must be maintained between an excavation and any property boundary. With the abutter's written permission, the natural buffer strips can be reduced to 10

feet, except the distance may not be reduced to less than 25 feet from the boundary of a cemetery or burial ground.

- b. The natural buffer strip between excavations owned by abutting owners may be eliminated with the abutter's written permission, provided the elimination of this buffer strip does not increase the runoff from either excavation across the property boundary. Any permission to reduce a buffer must provide that it remains in effect until mining ceases and must be recorded in the registry of deeds.

All property boundaries must be identified in the field by markings such as metal posts, stakes, flagging or blazed trees.

8. Erosion and sedimentation control. All reclaimed and un-reclaimed areas, except for access roads, must be naturally internally drained.

- a. All erosion and sedimentation control must conform to standards outlined in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, as amended.
- b. Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.
- c. Sediment may not leave the parcel or enter a protected natural resource.
- d. Grubbed areas not internally drained must be stabilized.

9. Water quality protection and storm water management. Standards of the laws governing storm water management and waste discharge must be met as provided in Performance Standards for excavation for borrow, clay, topsoil or silt (MRSA) Title 38, Section 490-D as amended, and Performance standards for quarries (MRSA) Title 38, Section 490-Z as amended

10. Traffic. The following provisions govern traffic:

- a. Entrances and exits of the mineral extraction operation onto a public way must be located, posted and constructed in accordance with standards for roadways adopted by the Town of Stockton Springs's Ordinances.
- b. Any excavation activity that generates 100 or more passenger car equivalents at peak hour must comply with applicable permit requirements under site location of development (MRSA) Title 38 Article 6, as amended.

11. Noise. Noise levels may not exceed applicable noise limits in rules adopted by the board of environmental protection, chapter 375.

12. Dust and Air Pollution.

- a. All air pollution control shall comply with minimum State requirements and all applicable equipment must have a current MDEP Air Emissions License.

- b. Dust generated by activities at the MEO site, including dust associated with traffic to and from the MEO site, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions. Dust control methods may include the application of calcium chloride, providing the manufacturer's labeling guidelines are followed. Visible emissions from a fugitive emission source may not exceed an opacity of 20% for more than 5 minutes in any one-hour period.
 - c. All access/egress roads leading to/from the extraction site to public ways shall be treated to reduce dust and mud for a distance of at least 100 feet from such public ways, as needed.
 - d. Loaded vehicles shall comply with all State Laws and Regulations and be suitably covered to prevent dust and contents from spilling or blowing from the vehicle. Spillage of extracted materials on public roads shall be the responsibility of the vehicle owner/operator.
- 13. Reclamation.** The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Reclamation shall be conducted in accordance with the MDEP's best management practices for erosion and sedimentation control and must follow Performance Standards for excavation for borrow, clay, topsoil or silt (MRSA) Title 38, Section 490-D (14) as amended, or Performance standards for quarries (MRSA) Title 38, Section 490-Z (13)
- a. The Planning Board may require a performance guarantee as described in article VI of this ordinance to assure Reclamation is completed.
- 14. Blasting.** Blasting must be conducted in accordance with Performance standards for quarries (MRSA) Title 38, Section 490-Z (14).
- a. A copy of the blasting plan as required under Performance standards for quarries (MRSA) Title 38, Section 490-Z (14) shall be submitted to the town.
- 15. Hours of Operation.**
- The following shall apply to specific applications of the operation.
- | | | |
|-----------------------|-------------|-----------------|
| Blasting | 7 am – 7 pm | Monday-Saturday |
| Drilling | 7 am – 7 pm | Monday-Saturday |
| Crushing & Processing | 7 am – 7 pm | Monday-Saturday |
| Loading | 6 am – 7 pm | Monday-Saturday |
| Loading Only | 7 am – 7 pm | Sunday |
- a. No operations are allowed at night, on Sunday or on the following holidays; Memorial Day, Fourth of July, Labor Day, Thanksgiving, and

Christmas unless approved by the planning board or in case of emergency requests the CEO.

- b. In the case of emergency requests for sand or gravel from public safety officials, the above hours may be waived.

16. Security. Access to the mineral extraction operation shall be strictly controlled with locking gates at the entrance of access roads.

17. Signs and Lighting. Signs and lightening must comply with other applicable Zoning ordinance for the town of Stockton Springs. Lighting on the premises shall be shielded in such a manner as to prevent glare from extending beyond the lot lines.

ARTICLE VI – PERFORMANCE GUARANTEES

Sect. 1 Types and Contents of Guarantees

The Town may require a bond payable to the Town of Stockton Springs with sureties satisfactory to the town or such other security as the planning board may determine adequately secures compliance with this article, conditioned upon the faithful performance of the requirements set for in Article V – Performance Standards for Reclamation. Other security may include a security deposit with the town, an escrow account and agreement, insurance or an irrevocable trust. In determining the amount of the bond or security, the planning board shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of grading and reclamation required. All proceeds of forfeited bonds or other security must be expended by the town for the reclamation of the area for which the bond was posted and any remainder returned to the operator. If a guarantee is already held with the state of Maine for this land the planning board shall waive this requirement.

Sect. 2 Release of Guarantees

Prior to the release of the Performance Guarantee, the Planning Board shall determine, after consultation with the CEO or a certified engineer or other consultant(s), that the reclamation meets the requirements of that portion of the project requested.

ARTICLE VII – MISCELLANEOUS

Sect. 1 Fees

- a. Application Fee as listed in the Town of Stockton Springs Fee Schedule.
- b. An Annual Fee as listed in the Town of Stockton Springs Fee Schedule shall be paid to the town of Stockton Springs:
 - i. The town of Stockton Springs will bill each owner/operator one month prior to the annual fee due date each year.

Sect. 2 Amendment after Approval

No modifications shall be made in an approved Final Plan unless they have been resubmitted to and approved by the Planning Board. The intensity of the review will be determined by the Planning Board, and depends upon the complexity of the proposed alterations.

Sect. 3 Enforcement

The CEO may order the owner or operator of a MEO that is not operating in compliance with this ordinance to cease operations until the noncompliance is corrected, stop work order.

Sect. 4 Right of Entry onto the Land

The CEO shall have the right of entry onto any mineral extraction activity site at reasonable times and after reasonable notice. If the operator, or its employee or agent, interferes with an inspection by the CEO, the CEO may seek an administrative search warrant pursuant to court rule 80E, and the operator shall pay the town a civil penalty of \$500.00 plus any legal fees incurred in obtaining that warrant.

Sect. 5 Penalties

Any person, firm, corporation, or other entity being the owner, or having control or responsibility for any MEO, who violates the terms or conditions of any MEO permit, approved by the planning Board, or who proceeds without a permit, shall be deemed a nuisance, and shall be subject to a civil penalty, expert witness fees, cost of court, and legal fees due and payable to the Town of Stockton Springs, in an amount determined by the court in accordance with the penalty provisions of 30-A M.R.S.A. Section 4452.

Sect. 6 Appeals and Variances

A. Administrative Appeals and Variances

Variances from the requirements of this Mineral Extraction Ordinance may only be granted by the Stockton Springs Board of Appeals.

B. Appeal to Superior Court

Any aggrieved party having proper standing may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Waldo County, within 45 days of a written decision in accordance with Maine State Law.

ARTICLE VIII – SEVERABILITY AND CONFLICT

Sect. 1 Severability

Should any section of this Ordinance be declared, by court of competent jurisdiction, to be invalid for any reason, such decision shall not invalidate any other section or provision of this Ordinance.

Sect. 2 Conflict with other Ordinances

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, or ordinance, that imposing the most restrictive or higher standard shall govern.

ARTICLE IX – AMENDMENT OF THIS ORDINANCE

Sect. 1 Initiation of Amendment

A proposal to amend this Ordinance may be initiated by:

- A. The Planning Board, by majority vote;
- B. The Select Board, through a request to the Planning Board; or
- C. The public, through a written petition of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election, but in no case less than 10. When an amendment to this Ordinance is proposed by other than the municipal officers or Planning Board, a fee of one hundred dollars (\$100) shall accompany the proposal to cover the cost of review, hearings and advertisements. This fee is non-refundable.

Sect. 2 Process of Adoption

The process to be followed in adopting an amendment to this Ordinance is as follows:

- A. Proposed amendments must first be submitted to the Planning Board for consideration;

- B. The Planning Board shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment;
- C. Notice of the public hearing shall be given as required by State Law;
- D. The Planning Board shall make its official report at a Select Board meeting occurring within sixty (60) days after the public hearing;
- E. If the Planning Board votes and reports to the Select Board that the amendment ought not to pass, because in the Board's opinion (i) the amendment is contrary to the Town's Comprehensive Plan, or (ii) it will not act to protect the public health, safety, and general welfare of the citizens of Stockton Springs, its environment, or its wildlife, enactment of that proposed amendment shall require a two-thirds (2/3) vote of the voters present at the town meeting; and
- F. Enactment of a proposed amendment having the approval of the Planning Board shall require only a majority of the voters present to enact the amendment.

ARTICLE X – OTHER PROVISIONS

Sect. 1 Public Access to Information

Except as made confidential by law, the Planning Board will make all documents and records available to the public in accordance with the Maine Freedom of Access Law, (Title 1 M.R.S.A. Section 401 et. Seq.)

Sect. 2 Adjoining Mineral Extraction Activity Under Common Scheme Development

Adjoining mineral extraction activity under common scheme of development separated by less than 500 feet of unaffected land shall be required to fulfill all the requirements as established in this Ordinance for the total size of the extraction area, including the adjoining site.

ARTICLE XI – DEFINITIONS

Active Extraction Area: The extraction area including side slopes and adjoining areas with overburden removed, excluding roads, structures, stockpile areas, etc. not part of the active mineral extraction operation.

Affected Land: The land area from which the overburden will be or has been removed; land upon which stumps, spoil, or other solid waste will be or has been deposited; and any storage area that will be or has been used in connection with the development, except a natural buffer strip.

Aquifer: An underground bed or stratum of earth, gravel or porous stone that contains water.

Blasting: The use of explosives to break up or otherwise aid in the extraction or removal of a rock or other consolidated natural formations.

Borrow Pit: A development undertaken for the primary purpose of excavating borrow, clay, topsoil, and/or silt.

Expansion of Existing Operation: Extraction operations that exceed the existing state permitted boundaries

For operations less than five (5) acres in active extraction area as of the effective date, expansion is defined as before an excavation exceeds 5 acres in reclaimed and unreclaimed land. For operations larger than five (5) acres, expansion is defined as before an excavation exceeds 10 acres in reclaimed and unreclaimed land.

Existing State Permitted Boundaries: Permitted Mineral Extraction Operations pursuant to but not limited to operations permitted by the Maine Department of Environmental Protection under, Site Location of Development (MRSA) Title 481 through 490, Performance Standards for excavation for borrow, clay, topsoil or silt (MRSA) Title 38, Section 490-A through 490-N as amended and Performance standards for quarries (MRSA) Title 38, Section 490-W through 490 EE as amended, and any variances from the standards of the aforementioned articles thus approved by the commissioner.

Ground Water: The water beneath the surface of the ground, consisting largely of surface water that has seeped down; the source of water in springs and wells.

Mineral Extraction Operation (MEO): Any excavation or removal, handling, or storage of borrow, clay, topsoil, silt, or rock whether alone or in combination.

Mineral Extraction Site or Area: All of the land area disturbed or otherwise developed for the extraction, handling, removal, processing, or storage of borrow, clay, topsoil, silt, or rock.

Natural Buffer Strip: An undisturbed area or belt of land that is covered with trees or other vegetation.

Normal High-Water Line: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of water, or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

Overburden. The earth and other materials naturally lying over the product to be removed.

Passenger car equivalents at peak hour: The number of passenger cars, or, in the case of nonpassenger vehicles, the number of passenger cars that would be displaced by nonpassenger vehicles, that pass through an intersection or on a roadway under prevailing roadway and traffic conditions at that hour of the day during which the traffic volume generated by the MEO is higher than the volume during any other hour of the day. For the purpose of this ordinance, one tractor-trailer combination is the equivalent of 2 passenger cars.

Processing: Any washing, screening, crushing, and mixing of borrow, clay, topsoil, silt, and/ or rock.

Protected Natural Resource: As defined in applicable State Law, section 480-B, subsection 8.

Quarry: A place where rock is extracted.

Reclamation: The are of land affected by excavations, including but not limited to, the stabilization of slopes and creation of safety benches, the planting of forests, the seeding of grasses and legumes for grazing purposes, the planting of crops for harvest, the enhancement of wildlife and aquatic habitat and aquatic resources and the development of the site for residential, commercial, recreational or industrial use.

Road: Public and private owned ways such as alleys, avenues, boulevards, highways, roads, streets, lanes, and other rights of way, as well as areas on mineral extraction activity plans designated as rights of way.

Seasonal High-Water Table: That part of the year when the water table is at its highest level.

Setback: The horizontal distance from a lot line or referred location to the nearest part of a structure or activity.

Setback from Water: The horizontal distance from the normal high water mark to the nearest part of a structure or activity.

Silt or Clay: A material that consists of particles of such a size that 45% or more of the fraction of those particles are able to pass through a 3-inch sieve pass through the United States Standard Number 200 sieve, or a material that exhibits similar erosion potential, difficulty of stabilization or runoff based upon gradations, plasticity, permeability or other relevant criteria.

Structure: Anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks, raised walkways, handicapped access ramps, and satellite dishes.

Surface Water: Any water flowing on the surface, either channelized or by sheet flow including, but not limited to, rivers, streams, brooks, ponds, lakes, and any swamp, marsh, bog, or other contiguous lowland where water is periodically collected on the surface.

Topsoil: The top layer of soil that is predominantly fertile and ordinarily moved in tillage or the equivalent of such a layer in uncultivated soils.

Wavier: A relaxation of the terms of the Ordinance where such a wavier would not be contrary to the public interest, where owing to existing conditions or operations, a literal enforcement of this Ordinance would result in an unnecessary or undue hardship, and where the intent of the Ordinance or item being waived can be met in some other appropriate manner, as determined by the Planning Board.

Water Table: The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.



Town of

Stockton Springs

Maine

P.O. Box 339

Stockton, Springs, ME 04981

SITE PLAN REVIEW ORDINANCE

of the Town of Stockton Springs

Attested by: Christina M. Hassapelis

Date: June 16, 2012

Enacted March 25, 2009
Amended June 19, 2010
Amended June 16, 2012

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Section 1. Purpose

The site plan review provisions set forth in this ordinance are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

Section 2. Applicability of Site Plan Review

A person who has right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:

1. The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures.
2. The expansion of an existing nonresidential building or structure including accessory buildings that increases the total floor area.
3. The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use.
4. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, and other nonstructural nonresidential uses.

5. The conversion of an existing nonresidential use, in whole or part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on-off-site impacts of the use subject to the standards and criteria of the site plan review described in Section 9 of this ordinance.
6. The construction of a residential building containing three (3) or more dwelling units.
7. The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.
8. The conversion of an existing nonresidential building or structure, in whole or part, into three (3) or more dwelling units within a five (5) year period.
9. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than two thousand five hundred (2500) square feet within any three (3) year period.

The following activities shall not require site plan approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit, or other state or local approvals:

1. The construction, alteration, or enlargement of a single or two-family dwelling, including accessory buildings and structures.
2. The placement, alteration, or enlargement of a single manufactured housing, or mobile home dwelling, including accessory buildings and structures on individually owned lots.
3. Agricultural activities, including agricultural buildings and structures.
4. Timber harvesting and forest management activities.
5. The establishment and modification of home occupations that do not result in changes to the site or exterior of the building.

6. Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this section.

Notwithstanding any other provisions of this section, Site Plan Review shall be required for any Wind Energy Development or associated structure for which the Planning Board is the Reviewing Authority under the provisions of the Wind Energy Development Ordinance of the Town of Stockton Springs.
(added 6-19-10)

Section 3. Definitions

3.1 Meaning of Words

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural.

3.2 Definitions

ABUTTING PROPERTY: Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

ACCESSORY BUILDING: A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

ACCESSORY STRUCTURE OR USE: A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

AGGRIEVED PARTY: An owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance; a person whose land abuts land for which approval has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such approval.

ARTERIAL: A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

BUILDING: Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

BUILDING FOOTPRINT: The area covered by a building measured from the exterior surface of the exterior walls at grade level inclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

CHANGE FROM ONE CATEGORY OF NONRESIDENTIAL USE TO ANOTHER CATEGORY OF NONRESIDENTIAL USE: A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

COLLECTOR STREET: A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

CURB CUT: The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

ENLARGEMENT OR EXPANSION OF A STRUCTURE: An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or

expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

ENLARGEMENT OR EXPANSION OF USE: Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

FISHERIES, SIGNIFICANT FISHERIES: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the Town of Stockton Springs's comprehensive plan.

HOME OCCUPATION: An occupation or profession which is carried on in no more than 25% of the total square footage of the single-family dwelling unit, or if located in an accessory building located on the property, in an area equal to no more than 25% of the total square footage of the single-family dwelling unit, by the full-time permanent occupant of the dwelling unit, which employs no more than two (2) persons other than family members residing in the home, and which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof. By way of illustration and not of limitation, the term home occupation shall include making foods such as breads, cookies or preserves, rugs, birdhouses, fishing flies, and quilts.. The term "home occupation" shall include both professional and personal services. Anything greater than 25% requires Planning Board approval under Site Plan Review.

FLOOR AREA: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

GROUNDWATER: All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

HISTORIC OR ARCHAEOLOGICAL RESOURCES: Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the Town of Stockton Springs's comprehensive plan.

IMPERVIOUS SURFACE: The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

LOCAL STREET: A public street or road which is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

NATURAL AREAS AND NATURAL COMMUNITIES, UNIQUE NATURAL AREAS AND NATURAL COMMUNITIES: Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the Town of Stockton Springs's comprehensive plan.

PRINCIPAL STRUCTURE: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

PRINCIPAL USE: A use other than one which is wholly incidental or accessory to another use on the same premises.

RECHARGE AREA: Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

SETBACK, FRONT: An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building or structure from the ground upward.

SETBACK, REAR: An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building or structure from the ground upward.

SETBACK, SIDE: An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building or structure from the ground upward.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent, vehicle, fences or retaining walls.

SUBSTANTIALLY COMMENCED; SUBSTANTIALLY COMPLETED: Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than [seventy (70)] percent of the costs of the proposed improvements within a development. It shall also include permanent stabilization and/or re-vegetation of areas of the site that were disturbed during construction.

USE: The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

VEGETATION: All live trees, shrubs, ground cover, and other plants.

WILDLIFE HABITAT, SIGNIFICANT WILDLIFE HABITAT: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the Town of Stockton Springs's comprehensive plan.

Section 4. Administration and Enforcement

This ordinance shall be administered and enforced by a Code Enforcement Officer (CEO) appointed by the Selectmen.

It shall be the duty of the CEO or his/her agent to enforce the provisions of this ordinance. If the CEO or his/her agent shall find that any provision of this ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

The CEO is hereby authorized to institute or cause to be instituted, in the name of the Town of Stockton Springs, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance.

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violated any of the provisions of this ordinance, shall be fined in accordance with Title 30-A §4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The Selectmen, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an

authorized Municipal Official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

Section 5. INTERPRETATION OF THE ORDINANCE

The Code Enforcement Officer (CEO) shall be responsible for administering the provisions of this ordinance including interpreting the provisions hereof.

Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance, may appeal such determination to the Board of Appeals as an administrative appeal. If the Board finds that the CEO erred in his/her interpretation of the ordinance, it shall modify or reverse the action accordingly.

Section 6. REVIEW AND APPROVAL AUTHORITY

The Planning Board is authorized to review and act on all site plans for development requiring site plan review as defined above.

In considering site plans under this provision, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.

Section 7. REVIEW PROCEDURES

The Planning Board shall use the following procedures in reviewing applications for site plan review.

7.1. Pre-application

Prior to submitting a formal application, the applicant or his/her representative may request a pre-application conference with the Planning Board. Said request shall be made, in writing, to the Board Secretary at least fourteen (14) days prior to the date of the meeting. Applicant shall provide the Planning Board with whatever information, relative to the proposed project, is available at the time of the pre-application conference. A pre-application conference is strongly advised. The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decision on the substance of the plan shall be made at the pre-application conference.

7.1.1. Purpose

The purposes of the pre-application conference are to:

- (1) Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal,
- (2) Allow the applicant to understand the development review process and required submissions,
- (3) Identify issues that need to be addressed in future submissions, and
- (4) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

In addition, the Board may schedule a site inspection in accordance with subsection 7.2(5) if deemed necessary and resolve any requests for waivers and variations from the submission requirements.

7.1.2. Information Required

There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to discuss the following with the Board:

- (1) The proposed site, including its location, size, and general characteristics,
- (2) The nature of the proposed use and potential development,
- (3) Any issues or questions about existing municipal regulations and their applicability to the project, and
- (4) Any requests for waivers from the submission requirements.

7.2. Application Submission and Review Procedures

The applicant must prepare and submit a site plan review application, including the development plan and supporting documentation that meets the submission requirements set forth below. This material must be submitted to the Code Enforcement Officer.

- (1) At the first meeting at which the application is considered, the Planning Board shall give a dated receipt to the applicant and shall, within five (5) business days, notify by first-class mail all property owners within five hundred (500) feet of the parcel on which the proposed development is located. If the application is found complete at this meeting, this notification shall be deemed given by virtue of the notification requirements set forth in section 7.5 below. Written notice of the pending application shall be mailed to the Selectmen, Town Manager, Fire Chief, Road Commissioner, and other interested parties.
- (2) Within thirty (30) days of the receipt of a formal site plan review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.
- (3) As soon as the Board determines that the application is complete, the Board shall: notify the applicant in writing of this finding, meet the notification requirements of subsection (4) below, and place the item on the

agenda for substantive review within thirty (30) days of this finding or at the next scheduled Planning Board meeting, whichever is later.

(4) As soon as the application is found to be complete, the Planning Board shall schedule a public hearing, and shall notify the Applicant and property owners within five hundred (500) feet of the parcel on which the proposed development is located, per the requirements set forth in Section 7.5 below.

(5) After the first meeting at which the application is considered, the Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may decide not to hold an on-site inspection when the site is snow covered or otherwise impassable due to customary seasonable conditions. If an application is pending during a period when there is snow cover or the site is impassable, the deadline by which the Planning Board shall take final action on the application as specified in (6) may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection (1).

(6) The Planning Board shall take final action on said application within thirty (30) days of determining that the application is complete or at the next scheduled Planning Board meeting, whichever is later. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town. The Board shall notify the applicant, all officials who received notice under (4), and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

7.3. Final Approval and Filing

Upon completion of the requirements of this Section and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and must be filed with the Code Enforcement Officer. Any plan not so filed within thirty (30) days of the date upon which such plan is approved and signed by the Board shall become null and void. (amended June 19, 2010)

7.4. Fees

7.4.1. Application Fee

An application for site plan review must be accompanied by an application fee in such amount as the Board of Selectmen may by rule from time to time establish. The fee schedule will be provided to the applicant by the Code Enforcement Officer. This fee is intended to cover the cost of the Town of Stockton Springs's administrative processing of the application. The fee shall not be refundable. This application fee must be paid to the Town of Stockton Springs and evidence of payment of the fee must be included with the application.

7.4.2. Technical Review Fee

In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the Town of Stockton Springs's legal and technical costs of the application review. This fee must be paid to the Town of Stockton Springs and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board. The Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review.

The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, recording fees, and appraisal fees.

The Town of Stockton Springs shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceed the amount deposited to the trust account.

7.4.3. Establishment of Fees

The Selectmen may, from time to time and after consultation with the Board, establish the appropriate application fees and technical review fees following posting of the proposed schedule of fees and public hearing.

7.5. Public Hearing Requirements

7.5.1 A public hearing is required for any Site Plan Review Application that requires Planning Board approval.

7.5.2 Notice of the date, time and place of the public hearing, and site inspection if scheduled, shall be made as follows:

(1). Published by the Planning Board at least once in a newspaper having general circulation within the Town of Stockton Springs. The date of the first publication shall be at least 21 days before the hearing.

(2). Posted at the Town Office, the Stockton Springs Post Office, the Stockton Springs web site and on the public access channel.

(3). Mailed by the Planning Board by certified mail to the Applicant.

(4). Mailed by the Planning Board by certified mail to the last-known addresses of owners of property located within 500 feet of any property line of the parcel(s) on which the proposed development is located. Failure of any of these property owners to receive a notice shall not invalidate the

public hearing, nor shall it require the Planning Board to schedule another hearing.

7.5.3 All costs of notification per the requirements of this section and any other section of this Ordinance shall be borne by the Applicant.

Section 8. SUBMISSION REQUIREMENTS

Applications for site plan review must be submitted on application forms provided by the Town of Stockton Springs. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Code Enforcement Officer. The submission must contain at least the following exhibits and information unless specifically waived in writing. The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the pre-application conference or at the initial review of the application if no pre-application conference is held. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information is not required to determine compliance with the standards.

All applications for site plan review must contain the following information:

- (1) A fully executed and signed copy of the application for site plan review.
- (2) Evidence of payment of the application and technical review fees.
- (3) Eight (8) copies of written materials plus eight (8) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development:

8.1. General Information

- (1) record owner's name, address, and phone number and applicant's name, address and phone number if different.

- (2) the location of all required building setbacks, yards, and buffers.
- (3) names and addresses of all property owners within five hundred (500) feet of any and all property boundaries.
- (4) sketch map showing general location of the site within the Town of Stockton Springs based upon a reduction of the tax maps.
- (5) boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
- (6) the tax map and lot number of the parcel or parcels on which the project is located.
- (7) a copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
- (8) the name, registration number, and seal of the person who prepared the plan, if applicable.
- (9) evidence of the applicant's technical and financial capability to carry out the project as proposed.

8.2. Existing Conditions

- (1) zoning classification(s), including overlay and/or sub-districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or sub-districts or abuts a different district.
- (2) the bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.
- (3) location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, on abutting streets, or land that may serve the development,

and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.

(4) location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.

(5) the location, dimensions and ground floor elevation of all existing buildings on the site.

(6) the location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.

(7) location of intersecting roads or driveways within two hundred (200) feet of the site.

(8) the location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

(9) the direction of existing surface water drainage across the site.

(10) the location, front view, dimensions, and lighting of existing signs.

(11) location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

(12) the location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

8.3. Proposed Development Activity

(1) estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.

- (2) the direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
- (3) provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
- (4) the location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
- (5) proposed landscaping and buffering.
- (6) the location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the site.
- (7) location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
- (8) location and type of exterior lighting.
- (9) the location of all utilities, including fire protection systems.
- (10) a general description of the proposed use or activity.
- (11) an estimate of the peak hour and daily traffic to be generated by the project.
- (12) stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

8.4. Approval Block

Space must be provided on the plan drawing for the signatures of the Planning Board and date together with the following words, "Approved: Town of Stockton Springs Planning Board".

Section 9. APPROVAL STANDARDS AND CRITERIA

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

9.1. Utilization of the Site

The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

9.2. Adequacy of Road System

Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development. If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within a growth area designated in

the Town's adopted Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

A development not meeting this requirement may be approved if the applicant demonstrates that:

- (1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
- (2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the Town of Stockton Springs.

9.3. Access into the Site

Vehicular access to and from the development must be safe and convenient.

- (1) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- (2) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- (3) The grade of any proposed drive or street must be not more than $\pm 3\%$ for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- (4) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- (5) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.

(6) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

(7) Access-ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

(8) The following criteria must be used to limit the number of driveways serving a proposed project:

a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all access-ways must not exceed sixty (60) feet.

9.4. Access-way Location and Spacing

Access-ways must meet the following standards:

(1) Private entrances/exits must be located at least fifty (50) feet from the closest un-signalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access-way. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

(2) Private access-ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

9.5. Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

(1) Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of 2 vehicles.

(2) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

(3) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

(4) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

9.6. Parking Layout and Design

Off-street parking must conform to the following standards:

(1) Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street. This requirement does not apply to existing parking in the downtown area (Main Street) of Stockton Springs as it exists as of the date of adoption of this ordinance.

(2) All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by access-ways not exceeding twenty-four (24) feet in width.

(3) Parking stalls and aisle layout must conform to the following standards.

Nine (9) feet wide by eighteen (18) feet long

(4) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

(5) Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.

(6) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

9.7. Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

9.8. Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

(1) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.

(2) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

(3) The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

(4) All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

(5) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.

(6) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

(7) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

9.9. Erosion Control

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies will be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991.

9.10. Water Supply

The development must be provided with a system of water supply that provides each use with an adequate supply of water.

If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

9.11. Sewage Disposal

The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

(1) All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.

(2) If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the owner and the new or expanded use connected to the public system. Such extension shall be required if the public system is within one hundred (100) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that connection to the public system will occur if and when the subsurface system needs to be replaced.

(3) If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.

(4) When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

9.12. Utilities

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

9.13. Natural Features

Unless an acceptable landscaping plan is presented and approved by the Planning Board, the landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

9.14. Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

9.15. Water Quality Protection

All aspects of the project must be designed so that:

(1) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or ground-waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

(2) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.

(3) If the project is located within the watershed of a 'body of water most at risk from development' as identified by the Maine Department of Environmental Protection (DEP), the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

9.16. Hazardous, Special and Radioactive Materials

The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies.

No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

9.17. Shoreland Relationship

The development must not adversely affect the water quality or shoreline of any adjacent water body. The development plan must provide for access to

abutting navigable water bodies for the use of the occupants of the development as appropriate.

9.18. Technical and Financial Capacity

The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

9.19. Solid Waste Disposal

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

9.20. Historic and Archaeological Resources

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

9.21. Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

9.22 Good Neighbor Factors

9.22.1. Buffering

The Planning Board may require the project to provide for buffering where reasonable and necessary, given the nature of the development and characteristics of the neighborhood. The planning board may require such buffering to be designed to provide a year-round visual screen in order to minimize nuisances on abutting properties. Such buffering may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof.

9.22.2. Lighting

The development may use lighting for security, safety, and operational needs. Such lighting may not directly or indirectly produce deleterious effects on abutting properties or impair the vision of a motor vehicle operator on adjacent roadways. Exterior lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by pedestrians or from adjacent dwellings, and do not unnecessarily light the night sky.

All exterior lighting, except security lighting, and except such lighting as may be necessary to the operation of the business during permitted business hours, must be turned off between the hours of 11P.M. and 6 A.M.

9.22.3. Noise

The development must control noise to be at such levels as to not create a nuisance for neighboring properties as determined by the reasonable man doctrine or standard.

9.22.4. Odors

The development must control unreasonable odors so that they will not create a nuisance for neighboring properties as determined by the reasonable man doctrine or standard.

9.22.5. Hours of Operation

The Planning Board may impose reasonable conditions of approval with respect to hours of operation, based on the nature of the business and the characteristics of the neighborhood.

Section 10. POST APPROVAL ACTIVITIES

10.1. Limitation of Approval

Substantial construction of the improvements covered by any site plan approval must be commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

10.2. Incorporation of Approved Plan

One copy of the approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.

10.3. Recording of the Approved Plan

This item intentionally omitted (June 19, 2010)

10.4. Improvement Guarantees

10.4.1. Application

(1) Improvement Guarantee - The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection 10.4.2. below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

(2) Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion

of improvements, and must send a copy of such notice to the appropriate Municipal Officials. The respective Municipal Officials shall inspect all improvements and must file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.

(3) The Planning Board shall either approve, partially approve, or reject the improvements on the basis of the report of the Municipal Officials.

(4) If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

10.4.2. Form of Guarantee

Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Board of Selectmen.

(1) Security Bond - The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.

(2) Letter of Credit - The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.

(3) Escrow Account - The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the Town of Stockton Springs, or in escrow with a bank. Any such account must require Town approval for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.

10.5. Submission of As-Built Plans

Any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area or fifty thousand (50,000) square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "as-built" plans must be submitted

within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

10.6. Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer.

10.7. Amendments to Approved Plans

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to Planning Board review and approval.

Section 11. APPEAL OF PLANNING BOARD ACTIONS

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

Section 12. AMENDMENTS TO THE ORDINANCE

Amendments of this ordinance may be initiated by the Selectmen, the Planning Board, or as specified in the Town Charter Title 20-A M.R.S.A. §2522.

No proposed amendments to this ordinance shall be referred to the Town Meeting until the Selectmen have held a public hearing on the proposal, notice of which shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the Town of Stockton Springs at least two (2) times with the date of first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing.

Town of Stockton Springs Site Plan Review -
Enacted March 25, 2009
Amended June 19, 2010
Amended June 16, 2012

The proposed amendments shall be adopted by a simple majority vote of the Town Meeting.

Section 13. SEVERABILITY

The invalidity of any section or provision of this ordinance shall not be held to invalidate any other section or provision of this ordinance.



Town of Stockton Springs

FLOODPLAIN MANAGEMENT ORDINANCE

Attested: _____

Date: _____

Effective March 25, 2009

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Town of Stockton Springs
FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I—PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Stockton Springs, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Stockton Springs, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Stockton Springs, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Stockton Springs has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Stockton Springs having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Stockton Springs, Maine.

The areas of special flood hazard, A, AE, and VE, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Stockton Springs, Maine, Waldo County," dated May 15, 1991 with accompanying "Flood Insurance Rate Map" dated May 15, 1991, which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Stockton Springs, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE and VE from data contained in the "Flood Insurance Study - Town of Stockton Springs, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and IX.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

- (4) in coastal zones use the *U.S. Army Corps of Engineers' Tidal Flood Profiles New England Coastline,, September 1988* to select the 100-year Frequency Tidal Flood appropriate for the development site's location on the profile.
2. highest and lowest grades at the site adjacent to the walls of the proposed building;
3. lowest floor, including basement; and whether or not such structures contain a basement; and,
4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 1. a Floodproofing Certificate (FEMA Form 81-65, 01/03, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 4. a certified statement that bridges will meet the standards of Article VI.M.;
 5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$25.00 for all minor development and \$ 50.00 for all new construction or substantial improvements shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study - Town of Stockton Springs, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
 - 1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second

Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. use construction materials that are resistant to flood damage;
 3. use construction methods and practices that will minimize flood damage; and
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.
- B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** – On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 3. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
- 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or
 - a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.
- 3. Zone VE shall meet the requirements of Article VI.P.

H. **Manufactured Homes** - New or substantially improved manufactured homes located within:

- 1. Zone AE AH shall:
 - a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

3. Zone VE shall meet the requirements of Article VI.P.

I. **Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and AE AH shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

2. Zone VE shall meet the requirements of either Article VI.I.1.a. or b., or Article VI.P.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zones AE and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. Floodways -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Insurance Rate Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones AE, and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
3. In Zones AE, and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zones AE and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. be engineered and certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
 3. The enclosed area shall not be used for human habitation; and,
 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.
- M. **Bridges** - New construction or substantial improvement of any bridge in Zones AE, A, and VE shall be designed such that:
1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
 2. a registered professional engineer shall certify that:
 - a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
 - b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. Containment Walls - New construction or substantial improvement of any containment wall located within:

1. Zones AE, A, and VE shall:

- a. have the containment wall elevated to at least one foot above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE, A, and VE, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. Coastal Floodplains -

1. All new construction located within Zones AE, A, and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zone VE shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.
 - b. have the space below the lowest floor:

- (1) free of obstructions; or,
- (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
- (3) constructed with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

c. require a registered professional engineer or architect to:

- (1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55/June, 2000); and,
- (2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.

3. The use of fill for structural support in Zone VE is prohibited.

4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.

6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:

- a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.
- b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
- d. The structure shall have unfinished interiors and shall not be used for human habitation.

- e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

Article VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

- 1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
- 2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
- 3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
- 4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
- 5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

- 1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
 - 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 - 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 - 1. review the required certificate(s) and the applicant's written notification; and,
 - 2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided in order to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Stockton Springs may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

- c. that the granting of a variance will not alter the essential character of the locality; and,
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
 - 1. other criteria of Article X and Article VI.K. are met; and,
 - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
 - 1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
 - 2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
 - 1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
 - 2. such construction below the base flood level increases risks to life and property; and,
 - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
6. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer (CEO) shall, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of;
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood – a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see **Structure**.

Certificate of Compliance - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer – a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zones AE or A, so that the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones AE, or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - an official form (FEMA Form 81-31, 02/06, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. Is required for purchasing flood insurance.

Flood or Flooding

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Floodprone Area - land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level – when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and

- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway –

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).



Shoreland Zoning Ordinance for the Town of Stockton Springs

Adopted by the Town of Stockton Springs on June 19, 1974

Amended on June 19, 1999

Amended on March 11, 2000

Amended on March 25, 2009

Amended on June 20, 2009

Amended on June 19, 2010

ATTEST: _____

Town Clerk

DATE: _____

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Shoreland Zoning Ordinance for the Town of Stockton Springs

Section 1. Purposes

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

Section 2. Authority.

This Ordinance has been prepared in accordance with the provisions of Title 38 section 435-449 of the Maine Revised Statutes Annotated (M.S.R.A.).

Section 3. Applicability.

This Ordinance applies to all land areas within two hundred fifty (250) feet, horizontal distance, of the

- normal high-water line of any great pond,
- the upland edge of a coastal wetland, including all areas affected by tidal action,
or
- upland edge of a freshwater wetland,

and all areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over, or abutting a dock, wharf, or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

Section 4. Effective Date of the Ordinance and Ordinance Amendments.

A. This Ordinance, which was adopted by the municipal legislative body of Stockton Springs on March, 25, 2009 shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment within forty-five (45) days of his/her receipt of the Ordinance or Ordinance Amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or the Ordinance Amendment, is approved by the Commissioner.

B. Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A section 438-A(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);
- Section 15(O) in its entirety; and
- Section 17. Definitions, the definitions of "forest management activities" and "residual basal area".

Section 5. Availability.

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

Section 6. Severability.

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

Section 7. Conflicts with Other Ordinances.

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute administered by the municipality, the more restrictive provision shall control.

Section 8. Amendments.

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following the adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

Section 9. District and Zoning Map.

- A. Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map which is (are) made a part of this Ordinance:
1. Resource Protection
 2. Limited Residential
 3. Limited Commercial
 4. Commercial Fisheries/Maritime Activities
 5. Stream Protection
- B. Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1" = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
- C. Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office.
- D. Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

Section 10. Interpretation of District Boundaries.

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

Section 11. Land Use Requirements.

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered, and no new lot shall be created except in conformity with all the regulations herein specified for the district in which it is located, unless a variance is granted.

Section 12. Non-conformance.

A. Purpose It is the intent of this Ordinance to promote land use conformities, except non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to be more non-conforming.

B. General

1. **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

1. **Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraph (a) and (b) below.
 - (a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this ordinance are met.
 - i. Expansion of any portion of a structure within twenty-five (25) feet of the normal high- water line of water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase the non-conformity with the water body, tributary stream, or wetland setback requirement.
 - ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.

iii. For structures located less than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within the 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream, or upland edge of a wetland is twenty (20) feet or the height of the existing structure, whichever is greater.

iv. For structures located less than one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is twenty-five (25) feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than seventy-five (75) feet horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For purposes of Section 12(C) (1)(a), a basement is not counted toward floor area.

(b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest extent possible as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below; if the completed foundation does not extend beyond the exterior dimensions of the structure, and the foundation does not cause the structure to be elevated more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the floor sill), it shall not be considered to be an expansion of the structure.

1-A. Special expansion allowance. Existing principal and accessory structures that exceed the floor area or height limits set in Section 12(C)(1)(a)(iii) and section 12 (C)(1)(a)(iv) above may not be expanded, except that the limits may be exceeded by not more than 500 sq. feet provided that all of the following requirements are met.

(a) The principal structure is set back at least fifty (50) feet, horizontal distance, from the normal high-water line of a body of water, tributary stream, or upland edge of a wetland.

(b) A well-distributed stand of trees and other natural vegetation as defined in Section 15(P)(2)(b), extends at least 50 feet, horizontal distance, in depth as measured from the normal high-water line or upland edge for the entire width of the property.

If a well-distributed stand of trees and other vegetation meeting the requirements of Section 15(P)(2)(b) is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the Planning Board or its designee, to re-establish a buffer of trees, shrubs, and other ground cover within 50, horizontal distance, feet of the shoreline or tributary stream.

(c) Adjacent to great ponds, except for the allowable footpath, there exists complete natural ground cover, consisting of forest duff, shrubs, and other woody vegetation within 50 feet, horizontal distance, of the normal high-water line. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch and plantings of native shrubs, and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of storm water.

(d) A written plan by the property owner, including a scaled site drawing, is approved by the Planning Board and is developed, implemented, and maintained to address the following mitigation measures for the property within the shoreland zone.

(i) Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies, tributary streams, and wetlands.

(ii) Roofs and associated drainage systems, driveways, parking areas, and other non-vegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow storm water runoff from reaching a water body, tributary stream, or wetland. Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or similar device.

1-B. Planting requirements. Any planting or revegetation required as a condition to the Special Exception Allowance must be in accordance with a written plan drafted by a qualified professional, be implemented at the time of construction, and be designed to meet the rating scores and the ground cover requirements contained in Section 15(P)(2)(b) when the vegetation matures within the 50-foot strip. Such professionals may include, but are not limited to, forester, landscape architects, arborists, and landscape contractors. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per eighty (80) square feet of newly established buffer. Planted saplings may be no less than three (3) feet tall for coniferous species and no less than six (6) feet tall for deciduous species. The planting plan must include a mix of at least three (3) native tree species found growing in adjacent area, with no one species making up more than 50% of the number of saplings planted unless otherwise approved by the Planning Board or its designee, based on adjacent stand comparisons. All aspects of the implemented plan must be maintained by the applicant and future owners.

1-C. Filing and reporting requirements. Written plans required pursuant to Section 12(C)(1-A)(d) must be filed with the registry of deeds of Waldo County. A copy of all permits issued pursuant to this section must be forwarded by the municipality to the Department of Environmental Protection within fourteen (14) days of the issuance of the permit.

2. Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where the vegetation and/or ground cover was disturbed, damaged, or removed must be re-established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed or removed.

(b) Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

3. Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is

removed, or damaged, or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction, or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream, or wetland setback requirements to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except pursuant to Section 12(C) (1) above, as determined by the non-conforming floor area of the reconstructed or replaced structure at its new location. If the total amount of floor area of original structure can be relocated or reconstructed beyond the required setback, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C) (2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

(4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

1. Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
2. Resumption Prohibited. A lot, building, or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption for a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
3. Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses in the CFMA district, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership and that all provisions of this Ordinance except lot area, lot width, and shore frontage can be met. Variance relating to setback or other requirements not involving lot area, lot width, or shore frontage shall be obtained by action of the Board of Appeals.
2. Contiguous Built Lots: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use of structure exists on each lot, the non-conforming lots can be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. section 4807-A through 4807-D) and State of Maine Subsurface Wastewater Disposal Rules are complied with.
3. Contiguous Lots – Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on November 24, 1994, and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:

- a. Each lot contains at least one hundred (100) feet of shore frontage and at least 20,000 sq. feet of lot area; or
- b. Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 sq. feet of lot area.

Section 13. Establishment of Districts

A. Resource Protection District. The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development I, or Commercial Fisheries/Maritime Activities Districts need not be included in the Resource Protection District.

1. Areas within two hundred fifty (250) feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadow, and wetlands associated with great ponds and rivers, which are rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department. Coastal wetlands are rated as of January 1, 1973. Freshwater wetlands are rated as of May 1, 2006. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.
2. This district shall also include 100 year floodplains adjacent to tidal waters as shown on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps.

3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
5. Land areas along streams subject to severe bank erosion, undercutting, or river bed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

B. Limited Residential District. The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District, the General Development Districts, or the Commercial Fisheries/Maritime Activities District.

C. Limited Commercial District. The Limited Commercial District includes areas of mixed, light commercial, and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development Districts. This District includes areas of two or more contiguous acres in size devoted to a mix of residential and low density business and commercial uses. Industrial uses are prohibited.

D. Commercial Fisheries/Maritime Activities District. The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within two hundred fifty (250) feet, horizontal distance, of the shoreline;
- (3) Depth of water within one hundred fifty (150) feet, horizontal distance, of the shoreline;
- (4) Available support facilities including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

E. Stream Protection District. The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond or within two-hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area is located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with the water body or wetland.

Section 14. Table of Land Uses.

All land use activities permitted in this district shall conform with all of the applicable Land Use Standards of this Ordinance. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map of the Town of Stockton Springs.

Key to Table 1:

Yes	Allowed, (no permit required, but the use must comply with all applicable land use standards.)
No	Prohibited
PB	Allowed with permit issued by the Planning Board
CEO	Allowed with permit issued by the Code Enforcement Officer
LPI	Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP	Resource Protection
LR	Limited Residential
LC	Limited Commercial
CFMA	Commercial Fisheries/Maritime Activities
SP	Stream Protection

The following notes are applicable to the Land Use Tables on the following page:

NOTE: The term “functionally water-dependent use” as define, includes a very diverse group of uses ranging from large, industrial facilities that receive shipments by water or use water for cooling, to traditional commercial fishing enterprises and public shorefront parks. Communities are encouraged to define the functionally water-dependent uses which are to be allowed and which are prohibited in each CFMA district, based upon considerations of prevailing existing uses, desired future uses, available support, site suitability and compatibility with adjacent uses. A municipality can narrow the range of allowed uses by precluding certain water-dependent uses, or by adopting conditional uses for certain functionally water-dependent uses that it determines would only be compatible with its plan for the waterfront under certain conditions.

NOTE: Recreational water-dependent uses such as marinas and excursion vessels may in some communities displace or threaten to displace traditional commercial fisheries and maritime activities. Therefore communities may wish to preclude or further limit these types of uses in this district in order to protect berthing space and onshore staging areas for commercial fishing enterprise.

TABLE 1. LAND USES IN SHORELAND ZONE

LAND USES	DISTRICT				
	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>LC</u>	<u>CFMA</u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing, and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting & land management roads	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes	yes
5. Clearing or removal of vegetation activities other than timber harvesting	CEO	CEO1	<u>CEO</u>	<u>CEO</u>	<u>CEO</u>
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes2	yes2	yes2	yes2
10. Mineral extraction including sand and gravel extraction	no	PB3, 13	PB13	PB13	PB13
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes
14. Aquaculture	PB	PB	PB	yes	yes
15. Principal structures and use					
A. One and two family residential, including driveways	PB4	PB9	CEO	CEO	no
B. Multi-unit residential	no	no	PB	PB	no
C. Commercial	no	no10	no10	PB	PB5
D. Industrial	no	no	no	no	PB5
E. Governmental and institutional	no	no	PB	PB	PB5
F. Small non-residential facilities for educational, scientific, or nature interpretation	PB4	PB	CEO	CEO	PB5
16. Structures accessory to allowed uses	PB4	PB	CEO	CEO	yes
17. Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland					
a. Temporary	CEO11	CEO11	CEO11	CEO11	CEO11
b. Permanent	PB	PB	PB	PB	PB5
18. Conversion of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	no
19. Home occupations	PB	PB	PB	CEO	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services					
A. Roadside distribution lines (34.5kV or lower)	CEO6	CEO6	yes12	yes12	yes12
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB6	PB6	CEO	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB6	PB6	PB	PB	PB
D. Other essential services	PB6	PB6	PB	PB	PB
22. Service drops, as defined, for allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO5
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no7	PB	PB	no
26. Road construction	PB	no8	PB	PB	PB5
27. Land management roads	yes	PB	yes	yes	yes
28. Parking facilities	no	no7	PB	PB	PB5
29. Marinas	PB	no	PB	PB	PB
30. Filling and earth moving <10 cubic yards	CEO	CEO	yes	yes	yes
31. Filling and earth moving >10 cubic yards	PB	PB	CEO	CEO	CEO
32. Signs	yes	yes	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

Notes:

1. In RP not allowed within 75 feet horizontal distance of the normal high-water line of great ponds, except to remove safety hazards.
2. Requires permit from Planning Board if more than 100 sq. feet of surface area, in total, is disturbed.
3. In RP not allowed in areas so designated because of wildlife value.
4. Provided that a variance from the setback requirement is obtained from the Board of Appeals.
5. Functionally water-dependent uses and uses accessory to such water-dependent uses only.
6. See further restrictions in Section 15.L.2.
7. Except when area is zoned for resource protection due to floodplain criteria, in which case a permit is required from the Planning Board.
8. Except as provided in Section 15(H)(4)
9. Single family residential structures may be allowed by Special Exception only, according to the provisions of Section 16.(E). Two-family residential structures are prohibited.
10. Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
11. Excluding bridges and other crossings not involving earthwork, in which case a permit is not required.
12. Permit not required but must file a written "notice of intent to construct" with C.E.O.
13. Also requires a permit under Mineral Extraction Ordinance

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over, or adjacent to any freshwater or coastal wetland, great pond, river, stream, or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation, or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

Section 15. Land Use Standards

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial, or Industrial per principle structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200
(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		

- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed area.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial, or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.
- (6) The Town may consider clustered housing units within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling unit, are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high water line of great ponds, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces, or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses.
- (b) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may

at his or her expense employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual acceptable to the permitting official(s) to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.

- (c) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream, or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

NOTE: All tidal land which is subject to tidal action during the highest annual tide is coastal wetland.

NOTE: The Planning Board may increase the required setback of any proposed structure as a condition of permit approval, if necessary, to accomplish the purposes of this Ordinance. Instances where a greater setback may be appropriate include, but are not limited to: areas of steep slope, shallow or erodible soils, or where an adequate vegetative buffer does not exist.

NOTE: A tributary stream may be perennial or intermittent. Where a tributary stream is present within the shoreland zone, setback standards from that tributary stream at its highest intermittent level are applicable.

- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one (1) foot above the elevation of the 100-year flood, the flood of record, or in the absence of these, the flood as defined by soil types. Accessory structures may be placed in accordance with the standards of the Town of Stockton Springs Floodplain Ordinance and need not meet the elevation requirements of this paragraph.
- (4) The total footprint area of all structures, parking lots, and other non-vegetated surfaces within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof located

within the shoreland zone, including land area previously developed and in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.

- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
- (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is (are) at least twenty-five (25) feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (d) The total height of the wall(s), in the aggregate, is no more than twenty-four (24) inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA's) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils;
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination hereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking, the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide or effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;

- (iv) A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
- (v) A footpath not to exceed the standards in Section 15(P)(2)(a) may traverse the buffer.

NOTE: If the wall and associated soil disturbance occurs within 75 feet horizontal distance of a water body, tributary stream, or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.

- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
- (7) New buildings shall be set back at least 10 feet from a property line.

C. Piers, Docks, Wharves, Bridges and Other Structures and uses Extending over or Below the Normal High-Water Line of a Water Body or Within a Wetland.

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock, or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.
- (5) No new structure shall be built on, over, or abutting a pier, wharf, dock, or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

(7) No existing structures built on, over, or abutting a pier, dock, wharf, or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

(8) Except in the Commercial Fisheries/Maritime Activities District, structures built on, over, or abutting a pier, wharf, dock, or other structure extending below the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock, or other structure.

NOTE: New permanent structures and expansions thereof projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

D. Campgrounds. Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent, or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet horizontal distance from the normal high-water line of a great pond, and seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet horizontal distance from the normal high-water line of a great pond, and seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

- (4) The clearing of vegetation for the siting of the recreational vehicle, tent, or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) When a recreational vehicle, tent, or similar shelter is placed on-site for more than one hundred twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds and streams which flow to great ponds:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides, or fertilizers other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

G. Parking Areas.

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet horizontal distance from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities Districts shall be no less than fifty (50) feet horizontal distance from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream, or wetland, and, where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: approximately twenty (20) feet wide.

H. Roads and Driveways. The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts, and other related features.

- (1) Roads and driveways shall be set back at least one hundred (100) feet horizontal distance from the normal high water line of a great pond, and seventy five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet horizontal distance upon clear showing by the applicant that the appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent, the road and/or driveway setback shall be increased by ten (10) feet horizontal distance for each five (5) percent increase in slope above twenty (20) percent.

Section 15(H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream, or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District, the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads, and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips, and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - (a) Ditch relief culverts, drainage dips, and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (percent)	Spacing (feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

(b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

(c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

(d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

(8) Ditches, culverts, bridges, dips, water turnouts, and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential, and Limited Commercial Districts:

(1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

(2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

(3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

(4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

(5) Signs relating to public safety shall be allowed without restriction.

(6) No sign shall extend higher than twenty (20) feet above the ground.

(7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff. The Storm water Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of twenty thousand (20,000) square feet or more of impervious area or five (5) acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed or a project with one (1) acre or more of developed area in any other stream, coastal, or wetland watershed. A permit-by-rule is necessary for a project with one (1) acre or more of disturbed area but less than one (1) acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than five (5) acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one (1) acre or more of disturbed area.

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces, and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of storm waters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Waste Disposal. The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:
 - (a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions shall not extend closer than seventy-five (75) feet horizontal distance from the normal high-water line of a water body or the upland edge of a wetland and
 - (b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

L. Essential Services

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a

permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

- (3) Damaged or destroyed public utility transmission and distribution lines, towers, and related equipment may be replaced or reconstructed without a permit.

M. Mineral Exploration and Extraction. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations. All excavations, including test pits and holes, shall be immediately capped, filled, or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction requires a permit under the Mineral Extraction Ordinance, before a permit for mineral extraction is granted, a Reclamation Plan shall be filed with and approved by the Planning Board. Such a plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15(M).

- (1) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet horizontal distance of the normal high-water line of a great pond, and within seventy-five (75) feet horizontal distance of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet horizontal distance of any property line without written permission of the owner of such adjacent property.
- (2) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (b) The disposal of any and all materials on-site must comply with all the provisions of the State of Maine Solid Waste Laws, 38 M.R.S.A. section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations.
 - (c) The final graded slope shall be two-and-one-half to one (2½:1) slope or flatter.

- (d) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (3) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading or disposal of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet horizontal distance of a great pond, or within seventy-five (75) feet horizontal distance of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one hundred (100) feet horizontal distance of the normal high-water line of a great pond; within seventy-five (75) feet horizontal distance from other water bodies and coastal wetlands; nor within twenty-five (25) feet horizontal distance of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet horizontal distance of the normal high-water line of a great pond; within seventy-five (75) feet horizontal distance of other water bodies and coastal wetlands, nor within twenty-five (25) feet horizontal distance of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending seventy five (75) feet horizontal distance inland from the normal high-water line there shall be no timber harvesting except to remove safety hazards.
 - (b) Beyond the 75-foot “no-harvest” strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with Section 15(O)(2) below except that in no case shall the average residual basal area of trees over one (1) inch in diameter at four and a half (4-1/2) feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O) (1) above, timber harvesting shall conform with the following provisions:
 - (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4-1/2 feet above the ground level on any lot in any ten (10)-year period is permitted. In addition:
 - i. Within one hundred (100) feet, horizontal distance of the normal high-water line of a great pond, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - ii At distances greater than one hundred (100) feet, horizontal distance, of a great pond, and greater than seventy five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet they shall be at least one hundred (100) feet horizontal distance apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
 - (b) Timber harvesting operations exceeding the forty percent (40%) limitation in Section 15(O)(2)(a) above, may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board’s decision.

- (c) No accumulation of slash shall be left within fifty (50) feet horizontal distance of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - i Surface waters are frozen; and
 - ii The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock, or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy five (75) feet horizontal distance in width for slopes up to ten percent (10%) shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy five (75) feet horizontal distance inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1) above, and except to allow for the development of permitted uses, within a strip of land extending one hundred (100) feet, horizontal distance

inland from the normal high water line of a great pond, and seventy five (75) feet horizontal distance from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

- (a) There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub items is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section a “well-distributed stand of trees” adjacent to a great pond shall be defined as maintaining a rating score of twenty four (24) or more in each twenty five (25)-foot by fifty (50) rectangular 1,250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - <4 in.	1
4 - <8 in.	2
8 - <12 in	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a “well-distributed stand of trees” is defined as maintaining a minimum rating score of sixteen (16) per twenty five (25)-foot by 50-foot rectangular area.

Note: As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, and three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36-24=12) may be removed from the plot provided that no cleared openings are created.

The following shall govern in applying this point system:

- i. The 25-foot by 50 foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- ii. Each successive plot must be adjacent to, but not overlap a previous plot;

- iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance.
- v. Where conditions permit, no more than fifty percent (50%) of the points on any 25-foot by 50 foot rectangular area may consist of trees greater than twelve (12) inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4-1/2) feet above ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at 4-1/2 feet above ground level, may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(2) above does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas, however, are limited to the minimum area necessary.

- (3) At distances greater than one hundred (100) feet, horizontal distance from a great pond, and seventy five (75) feet horizontal distance from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4-1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to principal and accessory structures, driveways, lawns, and sewage disposal areas, exceed in the aggregate, twenty five percent (25%) of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared . This provision shall not apply to the Commercial Fisheries/Maritime Activities Districts.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

- (1) All activities which involve filling, grading, excavation, or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - (a) Mulching and revegetation of disturbed soil.
 - (b) Temporary runoff control features such as hay bales, silt fencing, or diversion ditches.
 - (c) Permanent stabilization structures such as retaining walls or riprap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.

- (b) Anchoring the mulch with netting, peg and twine, or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty five (25)-year storm or greater, and shall be stabilized with vegetation or lined with riprap.

R. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal and commercial or industrial development and other similar intensive land uses shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists, and other persons with training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum groundwater elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

S. Water Quality

No activity shall deposit on or into the ground or discharge into the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream, or wetland.

T. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on (or eligible to be listed on) the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

Section 16. Administration

A. Administering Bodies and Agents

- (1) Code Enforcement Officer and Assistant(s)
A Code Enforcement Officer (CEO) and one (1) or more Assistant Code Enforcement Officers, where appropriate, shall be appointed by the Selectmen annually by July 1.
- (2) Planning Board
A Planning Board shall be created in accordance with State law.
- (3) Board of Appeals
A Board of Appeals shall be created pursuant to the provisions of 30-A M.R.S.A. Section 2691.

B. Permitting

- (1) Permit Requirements for Land Use and Structures
After the effective date of this Ordinance; no person shall, without first obtaining a permit:
 - (a) Engage in any activity or use of land or structure that requires a permit in the district in which such activity or land use would occur;
 - (b) Expand, change, or replace an existing use or structure;
 - (c) Renew a discontinued non-conforming use.

A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.
- (2) Permit Requirements for Existing Road Culverts
A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than twenty five percent (25%) longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than seventy five (75) feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course.
- (3) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or

level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

- (4) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title, or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.
- (5) Application fees in the Shoreland Zone shall be the same as for activities elsewhere in Stockton Springs, as established by the current Zoning Ordinance for the Town of Stockton Springs, Maine (Section VII (C)).

D. Procedure for Administering Permits

Within thirty five (35) days of the date of receiving written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within thirty five (35) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within thirty five (35) days after the first available date on the Planning Board's agenda following receipt of the completed application, or within thirty five (35) days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or statute administered by the municipality.

E. Special Exceptions

In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems, and other improvements are:
 - (a) Located on natural ground slopes of less than twenty percent (20%); and
 - (b) Located outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one (1) foot above the one hundred (100)-year floodplain elevation; and the development is otherwise in compliance with any applicable municipal floodplain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be one half (1/2) the width of the one hundred (100)-year floodplain.
- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of one thousand five hundred (1,500) square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream, or upland edge of a wetland to the greatest practical extent, but not less than seventy five (75) feet horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service

No public utility, water district, sanitary district, or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or

district shall forward the written authorization to the municipal officials, indicating that the installation has been completed.

H. Appeals

(1) Powers and Duties of the board of Appeals. The Board of Appeals shall have the following powers:

(a) Administrative Appeals: To hear and decide administrative appeals on an appellate basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a “de novo” basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision, or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

(b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) Variance Appeals: Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including but not limited to lot width, structure height, percentage of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:

i. The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

ii The strict application of the terms of this Ordinance would result in undue hardship. The term “undue hardship” shall mean:

1. That the land in question cannot yield a reasonable return unless a variance is granted;

2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
3. That the granting of a variance will not alter the essential character of the locality; and
4. That the hardship is not the result of action taken by the applicant or a prior owner.

(d) Notwithstanding Section 16(H)(2)(c)(ii) above, The Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall, or roof systems necessary for the safety or effectiveness of the structure.

(e) The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

- (3) Administrative Appeals: When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or

consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the records of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

- i An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon showing of good cause, may waive the thirty (30)-day requirement.
- ii Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - 1. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - 2. A sketch drawn to scale showing lot lines, location of existing buildings, and structures and other physical features of the lot pertinent to the relief sought.
- iii Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- iv. The Board of Appeals shall hold a public hearing on an administrative appeal or variance within thirty five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

- i A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- ii. The person filing the appeal shall have the burden of proof.

- iii. The Board shall decide all administrative and variance appeals within thirty-five (35) days after the close of the hearing and shall issue a written decision on all appeals.
 - iv. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and the conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (4) Appeal to Superior Court: Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (5) Reconsideration: In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and the proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

I. Enforcement

(1) Nuisances

Any violation of this ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

(a) It shall be the duty of the Code Enforcement Officer (CEO) to enforce the provisions of this Ordinance. If the CEO shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for the violation and ordering the action necessary to correct it, including the discontinuance of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

(b) The CEO shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

(c) The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

(3) Legal Actions. When the action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the CEO, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed as a direct result of erroneous advice given by an authorized municipal officer and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

(4) Fines. Any person, including but not limited to a landowner, a landowner's agent, or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30A, M.R.S.A. subsection 4452.

Section 17. Definitions

Accessory structure or use – use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or common wall is considered part of the principal structure.

Aggrieved party – an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person who land abuts land for which a permit or variance has been granted; or any other persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture – the production, keeping, or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture – the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area – the area of cross-section of a tree stem at 4-1/2 feet above ground level and inclusive of bark.

Basement – any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Boat Launching Facility – a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Campground – any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to, tents, recreational vehicles, or other shelters.

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Coastal wetland – all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat, or contiguous low land that is subject to tidal action during the highest tide level for the year in which any activity is proposed as identified by tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

NOTE: All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

Commercial use – the use of lands, buildings, or structures, other than “home occupation,” defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Development – a change in land use involving alteration of the land, water, or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional requirements – numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage, and height.

Disability – any disability, infirmity, malformation, disfigurement, congenital defect, or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions, or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of a mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation, or related services.

Driveway – a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling or less.

Emergency operations – operations conducted by the public health, safety, or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property, and livestock from the threat of destruction or injury.

Essential services – gas, electrical or communication facilities; steam, fuel, electric power, or water transmission or distribution lines, towers, and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry, or similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Expansion of a structure – an increase in the floor area or volume of a structure, including all extensions such as but not limited to: attached decks, garages, porches, and greenhouses.

Expansion of use – the addition of one or more months to a use’s operating season; or the use of more floor area or ground area devoted to a particular use.

Family – one or more persons occupying a premise and living as a single housekeeping unit.

Floodway – the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floor area – the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities – timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management training activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and construction, creation, or maintenance of roads.

Forest wetland – a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation – the supporting substructure of a building or other structure, but excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick, or similar material.

Freshwater wetland – freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses – those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigational aides, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters.

Great pond – any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Ground cover – small plants, fallen leaves, needles and twigs, and partially decayed organic matter on the forest floor.

Height of a structure – the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation – an occupation or profession which is customarily conducted on or in a residential structure or property and which is (1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; (2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure – any change in a structure or property which causes further deviation from the dimensional standard(s) creating nonconformity such as, but not limited to, reduction in water body, tributary stream, or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance with existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, and tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite – an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Industrial – The assembling, fabrication, finishing, manufacturing, packaging, or processing of goods, or the extraction of minerals.

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure, or land used for public purposes.

Land Management Road – a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed forester – a forester licensed under 32 M.R.S.A. Chapter 76.

Lot area – The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland area and areas beneath roads serving two or more lots.

Marina – a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops, and marine fuel service facilities.

Market value – the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration – hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction – any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other material from its natural location and to transport the product removed away from the extraction site.

Minimum lot width – the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit residential – a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure, or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming lot – a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure – a structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use – use of buildings, structures, premises, land, or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line (non-tidal waters) – that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the great pond during the period of normal high-water are considered part of the great pond.

NOTE: Adjacent to tidal waters, setbacks are measured from the upland edge of the “coastal wetland.”

Person – an individual, corporation, government agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high water line or within a wetland.

Temporary: Structures which remain in or over water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure – a building other than one which is used for the purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use – a use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility – any facility, including but not limited to, buildings, property, recreational areas, and roads, which are owned, leased, or otherwise operated or funded by a governmental body or public entity.

Recent floodplain soils – the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility – a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle – a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pickup camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system – a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change in design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit – a room or group of rooms designed and equipped exclusively for use as a permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping, and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area – the average of the basal area of trees remaining on a harvested site.

Riprap – rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and oil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

Road – a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Salt marsh – areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is salt marsh cord grass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow – areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal waters, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cord grass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Service drop – any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electrical service

- a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and

b. the total length of the extension is less than one thousand (1,000) feet.

2. in the case of telephone service

- a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback – the nearest horizontal distance from the normal high-water line of a water body or tributary stream or upland edge of a wetland, to the nearest part of a structure, road, parking space, or other regulated object or area.

Shore frontage – the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone – the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line or upland edge of a freshwater or coastal wetland.

Skid Road or Skid Trail – a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash – the residue, e.g. treetops and branches, left on the ground after a timber harvest.

Stream – a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United State Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water flows to another water body or wetland within the shoreland area.

Structure – anything built for the support, shelter, or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, poles, wiring, and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Substantial start – completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated cost.

Subsurface sewage disposal system – any system designed to dispose of waste or wastewater on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained slope – a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters – all waters affected by tidal action during highest annual tide.

Timber harvesting – the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting and removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber harvesting and related activities – timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Tributary stream – a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material, or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term “stream” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Note: Water setback requirements apply to tributary streams within the shoreland zone.

Upland edge of a wetland – the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

Vegetation – all live trees, shrubs, and other plants including without limitation, trees both over and less than four (4) inches in diameter, measured 4-1/2 feet above ground level.

Velocity zone – an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Water body – any great pond or stream.

Water crossing – any project extending from one bank on the opposite river of a stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossing. This definition includes crossings for timber harvesting equipment and related activities.

Wetland – a freshwater or coastal wetland.

Woody Vegetation – live trees or woody, non-herbaceous shrubs.



Town of

Stockton Springs Wireless Telecommunications Facilities Ordinance

Attested by Christina Hassarpelis
Title Town Clerk

Enacted June 14, 2008

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Stockton Springs Wireless Telecommunications Facilities Ordinance

Section 1. Title

This Ordinance shall be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance" of Stockton Springs, Maine, (hereinafter referred to as the "ordinance").

Section 2. Authority

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312 et seq.

Section 3. Purpose

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to: Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities; Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities; Allow competition in telecommunications service; Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions and residents of Stockton Springs; Permit and manage reasonable access to the public rights of way of Stockton Springs for telecommunications purposes on a competitively neutral basis; Ensure that all telecommunications carriers providing facilities or services within Stockton Springs comply with the ordinances of Stockton Springs; Ensure that Stockton Springs can continue to fairly and responsibly protect the public health, safety and welfare; Encourage the colocation of wireless telecommunications facilities , thus helping to minimize adverse visual impacts on the community; Enable Stockton Springs to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development; Further the goals and policies of the comprehensive plan, while promoting orderly development of the town with minimal impacts on existing uses; and Protect the scenic and visual character of the community.

Section 4. Applicability

This local land use ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in section 4.1.

4.1. Exemptions The following are exempt from the provisions of this ordinance:

A.) Emergency Wireless Telecommunications Facility. Temporary wireless communication facilities for emergency communications by public officials.

B.) Amateur (ham) radio stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).

C.) Parabolic antenna. Parabolic Antennas less than seven (7) feet in diameter, that are an accessory use of the property.

D.) Maintenance or repair. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment, provided that there is no change in the height or any other dimension of the facility.

E.) Temporary wireless telecommunications facility. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.

F.) Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

Section 5. Review and Approval Authority

5.1. Approval Required

No person shall construct or expand a wireless telecommunication facility without approval of the Code Enforcement Officer (CEO) or the Planning Board as follows:

A.) Expansion of an Existing Facility and Colocation. Approval by the CEO is required for any expansion of an existing wireless telecommunications facility that increases the height of the facility by no more than 20 feet; accessory use of an existing wireless telecommunications facility; or colocation on an existing wireless telecommunications facility.

B.) New Construction. Approval of the Planning Board is required for construction of a new wireless telecommunications facility; and any expansion of an existing wireless telecommunications facility that increases the height of the facility by more than 20 feet.

5.2 Approval Authority

In accordance with Section 5.1 above, the CEO or Planning Board shall review applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with this Ordinance.

Section 6. Approval Process

6.1. Pre-Application Conference

All persons seeking approval of the CEO or the Planning Board under this ordinance shall meet with the CEO no less than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

6.2. Application

All persons seeking approval of the CEO or the Planning Board under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.

A.) Application for CEO Approval. Applications for permit approval by the CEO must include the following materials and information:

- 1.) Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant.
- 2.) A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
- 3.) Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
- 4.) Location map and elevation drawings of the proposed facility and any other proposed structures, showing color, and identifying structural materials.
- 5.) For proposed expansion of a facility, a signed statement that commits the owner of the facility, and his or her successors in interest, to:
 - a.) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b.) negotiate in good faith for shared use by third parties;
 - c.) allow shared use if an applicant agrees in writing to pay reasonable charges for colocation;
 - d.) require no more than a reasonable charge for shared use, based

on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

B.) Application for Planning Board Approval.

An application for approval by the Planning Board must be submitted to the Code Enforcement Officer. The application must include the following information:

- 1.) Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
- 2.) A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
- 3.) A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.
- 4.) A site plan:
 - a.) prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
 - b.) certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and
 - c.) a boundary survey for the project performed by a land surveyor licensed by the State of Maine.
- 5.) A scenic assessment, consisting of the following:

a.) Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;

b.) A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

c.) Photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee, during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

d.) A narrative discussing:

i.) the extent to which the proposed facility would be visible from or within a designated scenic resource,

ii.) the tree line elevation of vegetation within 100 feet of the facility, and

iii.) the distance to the proposed facility from the designated scenic resource's noted viewpoints.

6.) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

7.) Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:

a.) Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,

b.) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements,

c.) Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:

i.) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be

- reinforced to accommodate the new equipment.
- ii.) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
 - iii.) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.
 - d.) For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance;
 - e.) Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing facility, building, or structure, and has been denied access;
- 8.) Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
- 9.) A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
- a.) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
 - b.) negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
 - c.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;
 - d.) require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

10.) A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

11.) Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

6.3. Submission Waiver

The CEO or Planning Board, as appropriate, may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the CEO or Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

6.4. Fees

A.) CEO Application Fee

An application for CEO approval shall include payment of an application fee of \$500.00. The application shall not be considered complete until this fee is paid. The applicant is entitled to a refund of the application fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the Town of Stockton Springs to review the application.

B.) Planning Board Application Fee

An application for Planning Board approval shall include payment of an application fee of \$1,000.00. The application shall not be considered complete until this fee is paid. An applicant is entitled to a refund of the application portion of fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the Stockton Springs to review the application.

C.) Planning Board Review Fee

An applicant for approval by the Planning Board shall pay all reasonable and customary fees incurred by the municipality that are necessary to review the application. The review fee shall be paid in full prior to the start of construction. That portion of the review fee not used shall be returned to the applicant within fourteen (14) days of the Planning Board's decision.

6.5. Notice of Complete Application

Upon receipt of an application, the CEO shall provide the applicant with a dated receipt. Within five (5) working days of receipt of an application the CEO shall review the application and determine if the application meets the submission requirements. The CEO or Planning Board, as appropriate, shall review any requests for a waiver from the submission requirements

and shall act on these requests prior to determining the completeness of the application.

If the application is complete, the CEO shall notify the applicant in writing of this determination and require the applicant to provide eight copies of the application to the Planning Board.

If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application.

If the application is deemed to be complete, and requires Planning Board review, the CEO shall notify all abutters to the site as shown on the Assessor's records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

6.6. Public Hearing

For applications for Planning Board approval under Section 5.1(B), a public hearing shall be held within 30 days of the notice of the complete application.

6.7. Approval

A.) CEO Approval. Within thirty (30) days of receiving a complete application for approval under section 5.1(A), the CEO shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. The CEO shall approve the application if the CEO finds that the application complies with the provisions in Section 7.1 of this ordinance. The CEO shall notify all abutters of the decision to issue a permit under this section. The time period may be extended upon agreement between the applicant and the CEO.

B.) Planning Board Approval. Within ninety (90) days of receiving a complete application for approval under section 5.1(B), the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. However, if the Planning Board has a waiting list of applications that would prevent the Planning Board from making a decision within the required ninety (90) day time period, then a decision on the application shall be issued within sixty (60) days of the public hearing, if necessary, or within 60 days of the

completed Planning Board review. This time period may be extended upon agreement between the applicant and the Planning Board.

Section 7. Standards of Review

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

7.1. CEO Approval Standards

An application for approval by the CEO under Section 5.1(A) must meet the following standards.

- A.) The proposed facility is an expansion, accessory use, or colocation to a structure existing at the time the application is submitted.
- B.) The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.
- C.) The proposed facility increases the height of the existing structure by no more than twenty (20) feet.
- D.) The proposed facility will be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable.
- E.) The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

7.2. Planning Board Approval Standards

An application for approval by the Planning Board under Section 5.1(B) must meet the following standards.

- A.) Location New wireless telecommunications facilities may be permitted on private property.
- B.) Siting on Municipal Property. If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, the applicant must show the following:
 - 1.) The proposed location complies with applicable municipal policies and ordinances.
 - 2.) The proposed facility will not interfere with the intended purpose of the property.

3.) The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

C.) Design for Colocation. A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future colocation of at least three additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the district height limitation effectively prevents future colocation.

D.) Height. A new wireless telecommunications facility must be no more than 300 feet in height or sufficiently above tree line to minimize interference.

E.) Setbacks. A new or expanded wireless telecommunications facility must comply with the set back requirements for the zoning district in which it is located, or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including the areas outside the property boundaries if secured by an easement. The following exemptions apply:

- 1.) The setback may be reduced by the Planning Board upon a showing by the applicant that the facility is designed to collapse in a manner that will not harm other property.
- 2.) An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached, and it does not encroach upon an abutting property.

F.) Landscaping. A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

G.) Fencing. A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

H.) Lighting. A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.

I.) Color and Materials. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent

practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

J.) Structural Standards. A new wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

K.) Visual Impact. The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the municipally adopted comprehensive plan, or by a State or federal agency.

1.) In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

- a.) The extent to which the proposed wireless telecommunications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource;
- b.) the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;
- c.) the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);
- d.) the amount of vegetative screening;
- e.) the distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and
- f.) the presence of reasonable alternatives that allow the facility to function consistently with its purpose.

L.) Noise. During construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. is exempt from existing municipal noise standards.

M.) Historic & Archaeological Properties. The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

7.3 Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board. Where necessary to ensure that an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include:

1.) The owner of the wireless telecommunications facility and his or her successors and assigns agree to:

a.) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response

b.) negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

c.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation.

d.) require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

2.) Upon request by the municipality, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

Section 8. Amendment to an Approved Application

Any changes to an approved application must be approved by the CEO or the Planning Board, in accordance with Section 5.

Section 9. Abandonment

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written

notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the municipality for removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

Section 10. Appeals

Any person aggrieved by a decision of the CEO or the Planning Board under this ordinance may appeal the decision to the Board of Appeals, as provided by Stockton Springs Zoning Ordinance. Written notice of an appeal must be filed with the Board of Appeals within thirty (30) days of the decision. The notice of appeal shall clearly state the reasons for the appeal.

Section 11. Administration and Enforcement

The CEO, as appointed through either the Permit Ordinance or by the Board of Selectmen, shall enforce this ordinance. If the CEO finds that any provision of this ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance.

The Selectmen, or their authorized agent, are authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow a violation of this ordinance to continue unless: there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no

evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

Section 12. Penalties

Any person who owns or controls any building or property that violates this ordinance shall be fined in accordance with Title 30-A M.R.S.A. § 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

Section 13. Conflict and Severability

13.1 Conflicts with other Ordinances

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

13.2 Severability

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

Section 14. Definitions

The terms used in this ordinance shall have the following meanings:

"Antenna" means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

"Antenna Height" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

"Colocation" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

"Expansion" means the addition of antennas, towers, or other devices to an existing structure.

"FAA" means the Federal Aviation Administration, or its lawful successor.

"FCC" means the Federal Communications Commission, or its lawful successor.

"Height" means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

"Historic or Archaeological Resources" means resources that are:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

"Historic District" means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

"Historic Landmark" means any improvement, building or structure of particular historic or architectural significance to the Town relating to its

heritage, cultural, social, economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

"Line of sight" means the direct view of the object from the designated scenic resource.

"Parabolic Antenna" (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

"Principal Use" means the use other than one which is wholly incidental or accessory to another use on the same premises.

"Public Recreational Facility" means a regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property owners.

"Designated Scenic Resource" means that specific location, view, or corridor, as identified as a scenic resource in the municipally adopted comprehensive plan or by a State or federal agency, that consists of:

- 1.) a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such a downtown skyline or mountain range, resulting in a panoramic view corridor; or
- 2.) lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

"Targeted Market Coverage Area" means the area which is targeted to be served by this proposed telecommunications facility.

"Unreasonable Adverse Impact" means that the proposed project would produce an end result which is:

- 1.) excessively out-of-character with the designated scenic resources affected, including existing buildings structures and features within the designated scenic resource, and
- 2.) would significantly diminish the scenic value of the designated scenic resource.

"Viewpoint" means that location which is identified either in the municipally adopted comprehensive plan or by a federal or State agency,

and which serves as the basis for the location and determination of a particular designated scenic resource.

"Wireless Telecommunications Facility" or "Facility" means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

Section 15. Effective Date

This ordinance becomes effective on June 14, 2008.

**SUBDIVISION ORDINANCE
of the
TOWN OF STOCKTON SPRINGS, MAINE**

revised

DECEMBER 1981
FEBRUARY 1982
MARCH 1983
JUNE 1999
MARCH 2000
JUNE 2001
JUNE 2002
JUNE 2003
JUNE 2004
JUNE 2006
JUNE 2007

ATTESTED BY _____

TITLE _____

prepared by
STOCKTON SPRINGS PLANNING BOARD
with assistance of
PENOBSCOT VALLEY REGIONAL PLANNING BOARD

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through funding provided by U.S. Department of Commerce,
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Management Act of 1972, as amended.

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**SUBDIVISION ORDINANCE
of the
TOWN OF STOCKTON SPRINGS**

ARTICLE 100. PURPOSE

The purpose of these subdivision regulations shall be as follows:

1. To assure the comfort, health, safety, and general welfare of the people;
2. To protect the environment;
3. To provide for the orderly development of a sound and stable community;
4. To uphold the State Subdivision Law, Title 30 MRSA Section 4956.

ARTICLE 200. AUTHORITY AND ADMINISTRATION

210. Authority

211. This ordinance is adopted pursuant to and consistent with Title 30 MRSA Section 4956.

212. This ordinance shall be known and cited as the Subdivision Ordinance for the Town of Stockton Springs.

220. Administering Bodies and Enforcement

221. The Planning Board of the Town of Stockton Springs with the guidance of the appointed Code Enforcement officer or Assistant Code Enforcement Officer(s), and the Selectmen (as specified in the ordinance) shall administer this ordinance. The Planning Board shall have a written agenda posted in advance of a meeting.

221.01. The Stockton Springs Planning Board is comprised of a seven (7) member board comprise of five (5) regular members and two (2) alternate members, who are residents of Stockton Springs. members serve a staggered term of three years and are appointed by the Board of Selectmen. The Planning Board acts as the planning and study committee of the Town and advised the Selectmen with regard to changes in the town's planning ordinances. The Planning Board has the authority to review subdivision as specified elsewhere in this ordinance.

222. The provisions of this ordinance shall pertain to all land proposed for subdivision as herein defined within the boundaries of the Town of Stockton Springs.

223. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the Planning Board and approved under Title 38, chapter 3, subchapter I, article 6, where applicable, and subsequently recorded in the proper registry of deeds.

A. No register of deeds may record any subdivision plat or plan that has not been approved under this subchapter. Approval for the purpose of recording must appear in writing on the plat or plan. All subdivision plats and plans required by this subchapter must contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared.

B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance or waiver from any applicable subdivision approval standard, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

(1) In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must:

- (a) Indicate the name of the current property owner;
- (b) Identify the property by reference to the last recorded deed in its chain of title: and
- (c) Indicate the fact that a variance or waiver, including any conditions, has been granted and the date of the granting.

(2) The variance or waiver is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or approval under Title 38, chapter 3, subchapter I, article 6, where applicable, whichever date is later, or the variance or waiver is void.

B-1. Whenever the subdivision is exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds. The developable land, as defined in Title 38, section 488, subsection 5, must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the registry of deeds. This certificate must:

- (1) Indicate the name of the current property owner;
- (2) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan;
- (3) Indicate that an exemption from Title 38, chapter 3, subchapter I, article 6, has been exercised;
- (4) Indicate that the requirements of Title 38, section 488, subsection 5, have been and will be satisfied; and
- (5) Indicate the date of notification of the Department of Environmental Protection under Title 38, section 488, subsection 5.

The exemption is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval under this subchapter or the exemption is void.

C. A building inspector may not issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable.

D. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable, shall be penalized in accordance with section 4452.

E. Any person who, after receiving approval from the municipal reviewing authority or approval under Title 38, chapter 3, subchapter I, article 6 and recording the plan at the registry of deeds, constructs or develops the subdivision or transfers any lot in a manner other than that depicted on the approved plans or amendments or in violation of any condition imposed by the Planning Board or the Department of Environmental Protection, when applicable, shall be penalized in accordance with section 4452.

F. Any person who sells, leases or conveys for consideration any land or dwelling unit in a subdivision approved under this subchapter and exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, shall be included in the instrument of sale, lease or convey to the transferee that all of the requirements of Title 38, section 488, subsection 5, have been and will be satisfied.

224. The Board of Selectmen of the Town of Stockton Springs, Code Enforcement Officer, or the Planning Board of the Town of Stockton Springs, may institute proceedings to enjoin violations of this ordinance, and if a violation is found in court, the Town of Stockton Springs may be allowed attorneys' fees.

225. Any person, firm, corporation or other legal entity found guilty of a violation of this ordinance shall be punished in accordance with Title 30-A section 4452.

226. Fees shall be established by the Board of Selectmen from time to time upon recommendation from the Planning Board. The fee schedule will be provided to the applicant by the Code Enforcement Officer. Fees shall be established sufficient to cover the cost to the Town in administering the provisions of the Ordinance.

ARTICLE 300 Waiver and Modification of these Regulations

310 - Where the Planning-Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other ordinance.

320- In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. Such waiver shall not in any way jeopardize the health, welfare, or safety of the community.

ARTICLE 400 - Validity, Effective Date, Conflict of Ordinances.-

410 - Should any section or provision of these regulations be declared by the courts to be invalid, such section shall not invalidate any other section or provision of these regulations, and to this end, the provisions of these regulations are hereby declared to be severable.

420 - The effective date of these regulations is March 21, 1983.

430 - These regulations shall not be repealed, annulled, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of the law. Where these regulations impose a higher standard for the protection and promotion of health and safety the provision of these regulations shall prevail.

440 - A copy of these regulations shall be filed with the Town Clerk and shall be accessible to any member of the public.

ARTICLE 500 - Amendments

These regulations may be amended by a majority vote of the Town at Town Meeting. A copy of all amendments shall be filed with the Town Clerk.

ARTICLE 600 - Appeals

An appeal may be taken, with 30 days from the Planning Board's decision on the Final Plan, by any party to Superior Court in accordance with Rule 80B of the Rules and Civil Procedure.

ARTICLE 700 - Definitions

710 - For the purpose of this Ordinance, the following terms, phrases, words and their definitions shall have the meaning given herein. When non-consistent with the context, words used in the singular include the plural. The word "SHALL" is always mandatory and not discretionary in sense. Further, any terms, phrases, words and their derivative not defined herein, shall be given that definition which is promulgated in *Webster's New World Dictionary, Third College Edition Copyright 1991*, on file in the Town Clerk's Office.

720 - The following words and terms, for the purpose of this ordinance, shall be defined as follows:

721 - Freshwater wetland. "Freshwater wetland" means freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils: and

B. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

722 - Minor Subdivision - A subdivision with less than (5) lots which does not involve the construction or reconstruction of a new street and/or the extension of public water lines and/or the construction of a storm drainage system and/or the construction of a public sewage disposal system.

723 - Major Subdivision - A subdivision which is not a minor subdivision.

724 - Modification of Subdivision Permit
Subdivision Ordinance Updated June 14, 2003

Minor Modification of Subdivision Permit - A change in a previously approved subdivision plan which does not involve an increase in the number of lots or new roadways, such as a change in lot lines.

Amendment of Subdivision Permit - A change in a previously approved subdivision plan which involves the addition of new lots or new roadways.

725 - Outstanding River Segments - In accordance with Title 12, section 402, “outstanding river segments” means:

The Penobscot River, including the Eastern Channel around Verona Island, from Odum’s Ledge in Sandy Point to the Veazie Dam.

726 - Subdivision - “Subdivision” means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first two lots and the next dividing of either of these first two lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider’s own use as a single-family residence or for open space as defined in Title 36, section 1102, for a period of at least 5 years before the 2nd dividing occurs; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the

existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent subdividing.

C. A lot of 40 or more acres shall not be counted as a lot, except:

(1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance; or

(2) When the municipality has, by ordinance, or the Planning Board has by regulation elected to count lots of 40 or more acres for the purposes of this subchapter when the parcel of land being subdivided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.

D. A division accomplished by device, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existing before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots applies, including the exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the Planning Board has determined that the units are not otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. Nothing in this subchapter may be construed to prevent a municipality from enacting an ordinance under its home rule authority which expands the definition of subdivision to include the division of a structure for commercial or industrial use or which otherwise regulates land use activities.

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph D, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

Exceptions: This subchapter does not apply to:

1. Previously approved subdivisions. Proposed subdivisions approved by the Planning Board before September 23, 1971 in accordance with laws then in effect;
2. Previously existing subdivisions. Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law;
3. Previously recorded subdivisions. A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971;
4. Airports with an approved airport layout plan. Any airport with an airport layout plan that has received final approval from the airport sponsor, the Department of Transportation, and the Federal Aviation Administration; or
5. Subdivisions in existence for at least 20 years. A subdivision in violation of this subchapter that has been in existence for 20 years or more, except a subdivision:
 - A. That has been enjoined pursuant to section 223 above;
 - B. For which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds;
 - C. For which a lot owner was denied a building permit under section 223, and record of the denial was recorded in the appropriate registry of deeds; or
 - D. That has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds.

727 - Street - A street means and includes such ways as motorized vehicles, as defined in MRSA Title 29 State of Maine Motor Vehicle Law.

Public Street - Any street which has been officially accepted by the Town of Stockton Springs as a public way.

Minor Street - street which serves primarily as an access to abutting properties.

Collector Street - A street which connects one or more minor streets with an arterial street.

728 - Tract or, parcel-of land - All contiguous land in separate tract of land unless such road was established by the owner of land on both sides thereof.

729. Road Design Definitions

A. Right of Way – all lands or other property interest provided or acquired for the development and operation of a road, which could include drainage and slope easements.

B. Base – that portion of the roadway constructed of special material on the subgrade and supporting the surface and pavement.

C. Shoulders – that portion of the roadway lying immediately outside the edge of the pavement.

D. Subgrade – that portion of the roadway upon which the base and shoulders are constructed.

E. Surfacing – that portion of the roadway constructed on the base course to facilitate fine grading and produce good rideability.

F. Surface Treatment – any bituminous treatment applied on the surfacing course, such as a tarred surface pavement applied at a rate of one gallon per square yard with at least 1-1/2 inches of penetration.

730. Adequate water pressure – Pursuant to State of Maine Rules Relating to Drinking Water, Section 4 A. Water Pressure, as the same, may from time to time, be amended or replaced, – All community water systems shall be operated and maintained to provide minimum positive pressure of 20 psi at the curb cock, except as otherwise provided for in limited service agreements.

ARTICLE 800 - Procedures for Subdivision Review

810 - Introduction - Whenever any subdivision of land is proposed in the Town of Stockton Springs, the subdivider or his/her duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the procedures in Section 820, 830, and 840.

811 - Changes to a Previously Approved Plan - Whenever changes are made to a previously approved plan, the subdivider or their agent shall apply in writing for approval of the changes.

812 - Review Criteria - When reviewing a subdivision for approval the Planning Board shall consider the following criteria, and before granting approval must determine that:

(1) Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination it shall consider:

- A. The elevation of the land above sea level and its relation to the flood plains;
- B. The nature of the soils and subsoils and their suitability to adequately support waste disposal;
- C. The slope of the land and its effect on effluents;
- D. The availability of rivers, streams, ponds, wetlands, and shorelands for the disposal of effluents; and
- E. The applicable state and local health and water resources rules and regulations;

(2) Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

- (3) Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
- (4) Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- (5) Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or public roads existing or proposed;
- (6) Sewage disposal. The proposed subdivision will provide for adequate sewage disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- (7) Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be used;
- (8) Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- (9) Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted comprehensive plan, if any. In making this determination the Planning Board may interpret the comprehensive plan;
- (10) Financial and technical ability. The subdivider has adequate financial and technical capacity to meet the standards of this section;
- (11) Surface waters, outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high water mark of 500 feet.

1. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

2. The frontage and set back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definition requirements of section 4401, subsection I, on September 23, 1983.

(12) Groundwater. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;

(13) Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

(14) Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

(15) River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9:

(16) Storm water. The proposed subdivision will provide for adequate storm water management:

(17) Spaghetti lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1; and

(18) Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision; and

(19) Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

(20) Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869 (14). In reviewing this criteria, the Board shall consider the provisions of Title 30-A, M.R.S.A. §4404 (20).

820 - Sketch Plan Review Phase

821 - The subdivider shall submit ten (10) copies of a sketch plan and application to the Code Enforcement Officer fifteen (15) days prior to the meeting in which the proposal is scheduled for discussion and the subdivider or his/her authorized agent shall be present at the meeting to discuss the proposal with the Planning Board.

822 The purposes of this conference between the subdivider and the Planning Board are:

1. To classify the subdivision as a major or minor subdivision;
2. To provide an opportunity for the subdivider and the Planning Board to informally review the subdivider's ideas for the use of the land;
3. To discuss procedures for subdivision review and approval;
4. To vote whether to waive the requirement for preliminary approval for minor subdivisions;
5. If road construction is involved in the proposal, the Planning Board shall classify the road as either minor or collector.
6. To discuss any apparent potential problems associated with the subdivision; and
7. To arrange for on-site inspection of the subdivision site.

823 - The sketch plan shall consist of an outline of the proposed subdivision, drawn on a map, showing the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan may be a free-hand pencil sketch. Accompanying the sketch plan shall be a written application which includes a description of existing covenants and easements and shoreland zoning; medium intensity soils survey information; information about available community facilities and utilities on or near the site; information describing the subdivision proposal including the number of residential lots, typical lot width, and depth; plans regarding sewer and water service, floodplain, erosion control, stormwater management, and road construction and provisions for safe traffic movement; and any proposed non-residential areas.

824 - Other than the classification of the subdivision and the roads (if necessary), and establishing procedure for subdivision review, no binding commitments shall be made between the subdivider and the Board at this stage.

825 - The Planning Board shall act on the sketch plan within 15 days of the time it is submitted and shall notify the subdivider of its action in writing, within 15 days of its action.

826 - Inspection of-Site - The Planning Board shall appoint an individual to act as its representative to conduct an on site inspection, unless a waiver of inspection has been voted by the Board. The sketch plan phase of the review process shall not be considered complete until such inspection has been made.

830 - Preliminary Plan Phase

831 - Purpose - The Purpose of the Preliminary Plan Phase Review is to give the Planning Board an opportunity to review the subdivider's proposal while it is in the planning stage and to make recommendations to the subdivider as seem appropriate based on state and local laws and regulations. The intent is that all major issues relative to the design of the subdivision will be identified and resolved prior to the submission of the final plan.

832 - Procedure -

832.1 - Application - Within six months after the classification of the Sketch Plan by the Planning Board, the subdivider shall submit an application for the consideration of a Preliminary Plan. Failure to do so shall require resubmission of the Sketch Plan to the Planning Board for reclassification.

The Preliminary Plan shall substantially conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board. For a minor subdivision, as defined, the Board may vote to waive the requirement for submission of A Preliminary plan.

832.2 - The application approval of the Preliminary Plan shall be accompanied by the fee as set forth on the fee schedule.

832.3 - The subdivider, or his/her duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.

832.4 - The time of submission of the Preliminary Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least fifteen days prior to which ten (10) copies of the application for Preliminary Plan approval, complete and accompanied by the fee and all data required by Section 833 of this ordinance have been filed with the Chairman of the Planning Board.

832.5 - Public Hearing - The Planning Board may hold a public hearing on the Preliminary Plan. If it determines that a public hearing shall be held, it shall be held within 30 days of the time of Submission of the preliminary plan. Said hearing shall be advertised in a newspaper of general circulation in Stockton Springs at least two times, the date of the first publication to be at least 7 days prior to the hearing. The Board shall send notice of such public hearing by Certified Mail, Return Receipt Requested, to all owners of property with 1000 feet of any boundary of the proposed subdivision. Said notice shall be mailed no later than 10 days prior to the date of the public hearing. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard, or regulation. All mailing and publication costs shall be reimbursed to the town, whether or not the meeting is held or approval is granted. The Board may ask for prepayment of these costs prior to the hearing. Any funds not used will be reimbursed to the applicant.

832.6 Within 30 days after the public hearing, or within 60 days of the date of submission of the plan if no public hearing is held, the Planning Board shall take action to give preliminary approval, with or without modifications, or to disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within the required time limit shall constitute preliminary approval.

832.7 When granting approval to a Preliminary Plan the Planning Board shall state the conditions of such approval, if any with respect to: (1) the specific changes which it will require in the final plan; (2) the character and extent of the required improvements for which waivers may have been requested and which in it's opinion may be waived with out jeopardy to the public health, safety, and general welfare. The Planning Board shall notify the subdivider, in writing, of it's decision and any conditions and reasons associated with it.

832.8 Approval of a Preliminary Plan shall not constitute approval of the Final Plan but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any.

833 - Submissions - The Preliminary Subdivision Plan shall be submitted, in the appropriate number of copies, which may be either printed or reproduced on paper. The Preliminary Plan shall be not less than 8 ½" by 11" and not more than 29" by 36". The Plan shall be drawn to scale in which one inch equals no more than 100 feet. The Preliminary Plan and supporting data shall include the following information.

833.1 Information about the Applicant

Information on the Plan.	Written Information to accompany plan.	
X	X	1. Name of owner.
X	X	2. Name of applicant (if other than owner).
X	X	3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's Registration.
	X	4. Name of the applicant's authorized representative.
X	X	5. Name, address, and number of Registered Professional Engineer or Land Surveyor prepared plan.
	X	6. Address to which all correspondence from the Planning Board should be sent.
	X	7. What interest does the applicant have in the parcel to be subdivided (option, land purchase, contract, record ownership, etc.)?
X	X	8. What interest does the applicant have in any property abutting the parcel to be subdivided?
	X	9. State whether preliminary plan covers entire contiguous holdings of applicant or not.

833.2 Information on Parcel to be Subdivided

Information on the Plan	Written Information to accompany plan	
	X	1. Location of property: Book and Page (From Register of Deeds).
	X	2. Location of Property: Map and Lot (From Assessor's Office).
X	X	3. Map survey of tract to be subdivided, certified by a registered Land Surveyor, tied to established reference points (attach to application).
	X	4. Acreage of parcel to be subdivided.

X	X	5. A soils report, identifying soil types and location of soil test areas. Evidence of soil suitability according to the Maine Plumbing Code shall be presented if subsurface sewage disposal is proposed. There shall be at least one soil test per lot if subsurface sewage disposal is proposed.
Information. on the Plan	Written Information. to accompany plan	
X		6. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided.
	X	7. Indicate the nature of any restrictive covenants to be placed on the deeds.
X	X	8. Shoreland zoning and/or floodplain if applicable
X	X	9. Outstanding river segments if applicable.
X	X	10. Significant Wildlife Habitat as defined by the Department of Inland Fisheries and Wildlife.

833.3 Information on Subdivision

X	X	1. Proposed name of subdivision.
X	X	2. Number of lots and lot sizes.
X		3. Date, north point, graphic map scale.
X		4. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems, and wells.
X	X	5. Location of all parcels to be dedicated to public use and the conditions of such dedication.
X		6. A location map showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area. The location map shall show all the area within 2,000 feet of any property line of the proposed subdivision.
X		7. Location and size of existing watercourses (i.e., rivers, streams and brooks) and other essential existing physical features including wetlands and floodplains.
X		8. Location and size of any existing sewers and water mains, and culverts and drains on the property.
X		9. Location, names and widths of existing and proposed streets, highways, easements, building setbacks lines, parks and other open spaces. Traffic safety provisions required by state or local ordinance shall also be shown.
X		10. Contour lines at an interval of not more than 5 feet in elevation, unless otherwise specified by the Board. All elevations shall be referred to U.S.G.S. datum.
X		11. Typical cross-sections of proposed grading for roadways and

		sidewalks.
X		12. Storm drainage plan indicating the approximate location and size of proposed lines and means of stormwater disposal. The disposal of stormwater runoff shall conform with state law.
X		13. The approximate location and size of all proposed water and sewer lines, valves, pump stations, and hydrants. Also, connections to existing water or alternative method of water supply and method of sewage disposal shall be shown.
X		14. Location of all other existing and proposed utilities such as electricity and telephone.
X		15. Location and type of landscaping including natural growth to be left in place and nursery stock to be planted. This information may be indicated on a preliminary plan print.
X		16. If the application covers only a part of the subdivider's entire holding, a map of the entire tract drawn at a scale of one inch equals not more than 500 feet, showing an outline of the platted area with its proposed streets and an indication of the probable future street system in the remaining portion of the tract. The part of the subdivider's holding submitted shall be considered in light of the entire holding.
X	X	17. If the preliminary application covers more area than the final plan will cover, a map showing the phasing of the entire project, drawn at a scale of one inch equals not more than 500 feet and indicating the proposed timing of each phase.
X	X	18. Other reasonable information not indicated above, as specified by the Board.

840 - Final Plan Phase

841 Procedure

1. Within 6 months of the date of the Planning Board action on the Preliminary Plan or, if the Preliminary plan requirement has been waived, with 6 months of the Planning Board's vote to waive the requirement, the subdivider shall submit the final plan to the Planning Board. Failure to submit the final plan within the designated time period may require resubmission of the Preliminary Plan if such is required or of the sketch plan if the Preliminary Plan was not required. However, the subdivider may submit a final plan for only part of the subdivision approved in the Preliminary Plan. In that case, each successive phase shall be submitted within three years of the preceding phase. The final plan shall consist of two original transparencies of one or more maps or drawings and ten copies of all items (including maps, drawings, and written information) necessary to complete the submission.
2. The application for approval of the Final Plan shall be accompanied-by a technical review fee as set forth on the fee schedule. The technical review fee shall be for consulting fees needed to review the application. The technical review fees shall be placed in a special account. Should the account be drawn down by more than 80%, the applicant shall pay an additional \$100 per lot. Any money left over after

the town review is complete shall be returned to-the applicant. Fees collected may be increased to adequately cover the cost of hiring professional consultants to carry out project review if determined necessary or desirable by the Planning Board.

3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.

4. The time of submission of the Final Plan shall be considered to be the date of the regular monthly meeting of the Planning Board at least fifteen days prior to which the complete application, accompanied by the required fee, has been filed with the Code Enforcement Officer. The Planning Board shall issue the subdivider a dated receipt for the Final Plan at-the time of submission of the Final Plan.

5. Within 30 days from receipt of a Final Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a, complete application. After the Planning Board has determined that a complete application has be filed, it shall notify the subdivider and begin it's full evaluation of the proposed subdivision.

6. Prior to submitting the Final Plan, the subdivider of a major subdivision in which new roads will be built or existing roads will be upgraded, shall file an Improvement Guarantee with the Selectmen. The purpose of the guarantee is to insure that all required subdivision improvements shall be satisfactorily completed. The amount, form and duration of the guarantee shall be that defined under Article 900 of this ordinance.

7. Public Hearing - The Planning Board may hold a public hearing on the Final Plan. If it determines that a public hearing shall be held, it shall be held within 30 days of the time of submission of the final plan. Said hearing shall be advertised in a newspaper of general circulation in Stockton Springs at least two times, the date of the first publication to be at least 7 days prior to the hearing. The Board shall send notice of such public hearing by Certified Mail, Return Receipt Requested, to all owners of property with 1000 feet of any boundary of the proposed subdivision. Said notice shall be mailed no later than 10 days prior to the date of the public hearing. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard, or regulation. All mailing and costs of publication shall be reimbursed to the town, whether or not the meeting is held or approval is granted. The Board may ask for prepayment of these costs prior to the hearing. Any funds not used will be reimbursed to the applicant.

8. Review and Action on Final Plan - The Board shall, within 30 days of a public hearing; or within 60 days of having received a complete application, if no public hearing is held; or within such other time limit as may be mutually agreed to by the Board and the subdivider, review the application and deny to grant approval of the proposed subdivision, or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these-regulations and State Law and to preserve the public's health, safety and general welfare. In all instances, the burden of proof shall be, upon the subdivider. In issuing it's decision, the Planning Board shall take findings of fact establishing that the

proposed subdivision does or does not meet the provisions of these regulations and the State Subdivision Law.

9. Upon approval of the plan, at least a majority of the Board members present and eligible to vote shall sign both transparencies and the date and any conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the Registry of Deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain permanent record of their action on the final plan.

10. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan, unless the plan is first re-submitted to the Planning Board and the Board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void.

11. A recording fee of \$500 shall be required by the applicant. This fee shall be returned to the applicant after a signed and recorded plan is returned to the Town. The subdivider shall file a signed subdivision plan at the Waldo County Registry of Deeds within 90 days of the date of approval. Any plan not filed within ninety days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension.

12. If the Planning Board fails to take action within 60 days of the time of submission of a complete final plan, or within the mutually agreed to time, as specified above, the subdivision plan shall-be deemed disapproved.

13. Approval of a subdivision plan does not imply that any road in the subdivision will be accepted by the Town. Only the legislative body of the Town of Stockton Springs, the Town Meeting, can accept a road as a public way.

842 - Submissions – Four (4) paper copies and one (1) mylar copy of the Final Plan shall be submitted to the Planning Board for signatures. The Final Plan shall be not less than 8 1/2" by 11" and 29 1/2", by 36". The plan shall be drawn at a scale in which 1 inch equals no more than 100 feet and shall be oriented so the north direction is the same on all sheets.

In addition to all applicable items require on the Preliminary Plan otherwise indicated by the Planning Board, the following items shall be required as part of the Final Plan submissions:

Submission

Information
on the Plan.

Written Information
to accompany plan.

X

1. Registered Land Surveyor or Engineer - The name, registration number, seal and signature of the land surveyor and/or engineer who prepared the plan. This information shall be on all sheets including cross section and profile

		sheets also.
X		2. Streets - The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and tangent distances and bearings (shown on plan).
X		3. Street Profiles - Profiles of center lines of proposed new streets on sheets separate from the plan, at a horizontal scale of one inch equals 40 feet; profiles of all proposed sewers shall be shown on street profiles, when applicable at the same scale. All elevations shall refer to USGS datum.
X		4. Street Cross Sections - Cross sections at 50 foot horizontal intervals of proposed new streets, on sheets separated from the plan, plotted at a scale of one inch equals 5 feet. All elevations shall refer to USGS datum.
X		5. Sewer Profiles - If a congregate sewage disposal system is proposed, a plan and profile of the system to be used and evidence that it will comply with the State of Maine Plumbing Code.
X		6. Storm Drainage Plan - Indicating the location and size of the proposed lines and their profiles and means of disposal.
X	X	7. Open Spaces - The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider. If open space or recreational land is to be dedicated to the town, accompanying the plan shall be written copies of any documents of land dedication and a letter from the Town Attorney that he/she is satisfied with the legal sufficiency of the documents conveying such land dedication.
X		8. Lots - The location, bearing, and length of every line, with all lots to be numbered in accordance with the practice of the Town of Stockton Springs.
X		9. Permanent Reference Monuments - The location of permanent monuments and pins, set at all lot corners, and identified as existing and proposed.
	X	10. Improvement Guarantee - Accompanying the plan shall be a letter from the Selectmen indicating that the form, amount and duration of the improvement guarantee is sufficient and that it has been filed with them, or, in the case of sequential approval, that the Planning Board must limit it's approval according to the guarantee
X		11. Approval Space - Suitable space to record on the approval plan the data and conditions of approval, if any. This space shall be similar to the following examples.

Approved: Town of Stockton Springs Planning Board

_____, Chairman

Date _____

Conditions _____

12. Accompanying Data - If public water is proposed, accompanying the final plan shall be a letter from the Superintendent of the Water District stating conditions on which the district will supply water and approving the size and locations of mains, size and location of hydrants proposed.

13. Whenever an approval of a subdivision is based on the granting of a variance or waiver from any applicable standard, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

(1) In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must: (a) Indicate the name of the current property owner; (b) Identify the property by reference to the last recorded deed in its chain of title; and (c) Indicate the fact that a variance or waiver, including any conditions on the variance or waiver has been granted and the date of the granting.

(2) The variance or waiver is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or approval under Title 38, chapter 3, subchapter I, article 6, where applicable, whenever date is later, or the variance or waiver is voided.

14. Whenever the subdivision is exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5 (the so called "Cluster Subdivision" exemption) that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds. The developable land, as defined in Title 38, section 488, subsection 5, must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the registry of deeds. This certificate must: (1) Indicate the name of the current property owner; (2) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan; (3) Indicate that an exemption from Title 38, chapter 3, subchapter I, article 6, has been exercised; (4) Indicate that the requirements of Title 38, section 488, subsection 5, have been and will be satisfied; and (5) Indicate the date of notification of the Department of Environmental Protection under Title 38, section 488, subsection 5. The exemption is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval under this subchapter or the exemption is void.

ARTICLE 900 - Improvement Guarantees

910 - Improvement Guarantees Required - Before the submission of a Final Plan, the subdivider in all major subdivisions as defined in Article 724 shall provide the Town with improvement guarantees, in the form of one or more, of the guarantee options listed below in an amount that will cover at least 100% of the cost of completing the construction of street and storm drainage system, should the subdivider fail to complete the required improvements or fail to complete them satisfactorily in accordance with the approved final subdivision plan.

920 - Procedure - The subdivider shall file with the Selectmen a proposed improvement guarantee and the Selectmen shall determine whether the form, amount and duration of the improvement guarantee are sufficient. In the event the Selectmen refuse to approve the proposed improvement guarantee as filed by the subdivider, they shall so inform the subdivider. In the event the Selectmen approve the proposed improvement guarantee as filed by the subdivider, they shall notify the Planning Board. The Planning Board shall not grant final approval until it has received such notification from the Selectmen. The burden of submitting improvement guarantees in compliance with this ordinance shall at all times remain with the subdivider.

921 - Sequential Approval - If the subdivider chooses and the Selectmen approve the improvement guarantee option of sequential approval, the procedure shall be the same as the procedure established under Article 920, however, the Selectmen shall notify the planning Board that the sequential approval option has been chosen and the Planning Board shall not grant further subdivision approvals in that subdivision or to that subdivider until the Selectmen have notified the Planning Board that the work guaranteed in the approved phase has been satisfactorily completed. In addition, before the option of sequential approval is allowed, the subdivider must obtain approval from the Planning Board of his preliminary plan for the entire proposed subdivision.

930 - Time Limit

931 - Completion Deadline - All required improvements within a subdivision shall be completed within 2 years of final subdivision approval. The improvement guarantee must provide performance protection to the Town during said 2 year period plus at least 6 months following the expiration of the 2 year period. The additional 6 month period is required as protection to the Town in the event the subdivider fails to complete the required improvements or fails to complete them satisfactorily.

932 - Extension - The Selectmen may extend the completion deadline for two additional years at one year increments only where the subdivider presents substantial reason for doing so-. No request for extension shall be considered until at least 6 months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Selectmen shall require that the improvement guarantee be extended in duration to cover the extended period of time--plus an additional 6 months period. Before extending the initial deadline, or the initial extension, the Selectmen shall review the form and amount of the improvement guarantee to make certain it remains adequate.

940 - Inspection and certification

941 - The Selectmen or their duly appointed representative shall regularly inspect the construction of the required improvements for defects. The subdivider shall cooperate with the Selectmen or their representative

who is carrying out these inspections. Upon completion of the improvements the Selectmen shall notify the subdivider and the Planning Board, in writing, that the improvements have or have not been satisfactorily completed according to the approved final subdivision plan if the improvements have not been satisfactorily completed, the Selectmen shall list the defects.

942 - Upon completion of the improvements, the subdivider shall file the following with the Selectmen:

1. A sworn statement from the subdivider's engineer all required improvement are completed in strict compliance with all applicable construction standards and the approved subdivision plan; and that the engineer knows of no defects from any cause, in the improvements;
2. A sworn statement from the subdivider that the improvements are free and clear of any encumbrance or lien; and that the subdivider knows of no defects from any cause, in the improvements.

950 - Release of Guarantee - As soon as the Selectmen or their authorized representative have- inspected the improvements and certified that they are satisfactorily completed and the subdivider has filed the letter required in Section 942 of this ordinance with the Selectmen, the Selectmen shall release the previously required improvement guarantee to the subdivider.

960 - Reduction of Guarantee - No improvement guarantee shall be reduced in value until all required improvements are satisfactorily completed.

970 - Incomplete or Unsatisfactory Work - If the Selectmen determine, according to the procedures laid out in Section 940 of this ordinance, that the improvements have not been satisfactorily complete according to the accepted subdivision plan, within the agreed upon time, they shall inform the subdivider in writing of the Town's intent to exercise it's rights against the improvement guarantee, they shall exercise any and all such rights; and shall cause the incomplete or unsatisfactory work to be completed and to be paid for from the improvement guarantee assets. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work may be returned to the subdivider at the discretion of the Selectmen.

980 - Improvement Guarantee Options

981 - Performance Bond - Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The bond shall be payable to the town of Stockton Springs and shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional Engineer and as approved by the Selectmen. The duration of the bond shall be for a period of time acceptable to the Selectmen, but in any case shall be for at least 2 years and 6 months and for not more than 3 years, unless the subdivider is granted an extension in accordance with Section 932 of this ordinance. In the event an extension is granted, the Selectmen shall require the duration of the subdivision bond to be extended for at least 6 months from the termination of the new time limit.

982 - Property Escrow - Under this improvement guarantee option, the subdivider shall provide real estate as a guarantee. The value of such property shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional' Engineer and as approved by the Selectmen.

If property escrow is proposed for the improvement guarantee, the subdivider must comply with the following requirements:

1. The value of the real estate shall be the value as established by the Town Assessor, and in making his valuation, the Town Assessor shall take into account the possibility of a decline in value during the term of the improvement guarantee.
2. The subdivider shall, at his expense, provide the Town with a title option from an attorney approved by the Town; said title option shall establish that the subdivider has good and clear title to the premises, free of all liens and encumbrances. However, if encumbrances do exist on said real estate, the Selectmen may, at their discretion, accept the proposed real estate as security, providing that they determine that it is in the Town's best interest to do so.
3. The subdivider shall enter into an Agreement with the Town and a mortgage, which mortgage shall be recorded in the Registry of Deeds; said Agreement and mortgage shall provide that the Town, unless the subdivider satisfactorily completes the required improvements in accordance with this ordinance and with the approved final subdivision plan. Said Agreement and mortgage shall be in such form and shall contain such additional provisions as may be required by the Selectmen.

983 - Letter of Credit - Under this improvement guarantee option, the subdivider shall provide as a guarantee an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Selectmen, such letter of credit shall be in form satisfactory to the Selectmen. Such letter of credit shall be for an amount sufficient to cover the full costs of all required improvements as estimated by a registered Professional Engineer and as approved by the Selectmen. The letter of credit shall be deposited with the Selectmen and shall certify the following:

1. That the creditor does guarantee funds in an amount equal to the costs as estimated for the subdivider by a registered Professional
2. That, in case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Stockton Springs immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the credit limit stated in the letter;
3. That the letter of credit is valid for the period of time required by the Selectmen. The period of time, not less than 2 years and 6 months from the date of subdivision approval shall be stated in the letter. During that time, the letter may not be withdrawn or reduced in amount except with the approval of the Selectmen.

984 - Cash Escrow - Under this improvement guarantee option, the subdivider shall provide as a guarantee cash held in an account at a bank or other reputable institution subject to the approval of the Selectmen. The amount of cash shall be in an amount sufficient to cover the full cost of all the required improvements as estimated by a registered Professional Engineer and approved by the Selectmen. The subdivider shall enter into an Agreement with the Town that shall stipulate the terms under-which a cash escrow may be accepted by the Town.

990 - Sequential Approval - Where a subdivision is to be developed in several sections and where the preliminary plan, as approved, shows the proposed subdivision for the entire tract of land, the Selectmen may, at their discretion, waive the use of any other form of guarantee herein specified on the initial sections provided that such sections may not be larger than 16 lots or 50 percent of the total lots in the subdivision, whichever is less. If this option is approved, the Selectmen shall so notify the Planning Board. The Selectmen shall further inform the Board of the number of lots which can be approved and that no further final subdivision approvals may be granted in the subdivision or to the subdivider until the improvements are approved, the Selectmen shall notify the Planning Board, thus allowing it to consider further sections of the subdivision. This process of sequential approval may continue, one section at a time, with the final plan approval for each succeeding section being contingent upon the satisfactory completion of all contracted improvements in each preceding section and acceptance of those improvements in accordance with Section 940 of this ordinance and with in any required time limits. Completion of improvements in the final section of the subdivision, which shall include at least 16 lots, or 50 percent of the total number of lots in the subdivision, whichever is less, must be guaranteed through the use of one or more of the other improvement guarantee options provided in this ordinance. If a subdivider wishes to use this form of improvement guarantee, he/she must include in this preliminary plan information on the phasing of the entire project including the expected timing of the project and the lots and improvements to be developed and/or completed in each section of the subdivision.

ARTICLE 1000 - General Requirements and Design Standards

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Article 300 of this ordinance.

1001 - General Requirements

1011 - Conformity with other laws regulations - All proposed subdivisions shall be in conformity with the Comprehensive Plan of the Town of Stockton Springs, as amended, and with the provisions of all pertinent state and local codes, ordinances, laws, and regulations.

Subdivision Ordinance Updated June 14, 2003

1012 - Character of the Land - The Planning Board shall not approve such portions of any proposed subdivision that are located on land below sea level, within the 50 year frequency flood plain, or on land which must be filled or drained, or on land created by diverting a watercourse, or on land which cannot be provided with adequate means of sewage disposal. In no instance shall the Planning Board approve any part of a subdivision located on filled tidal land.

1020 - Lots

1021 - Lots to be Buildable - The lot arrangement shall be such that in constructing a building in compliance with the laws and ordinances of the Town of Stockton Springs and the State of Maine there will be no foreseeable difficulties for reasons of topography or other conditions. Lots should not be of such dimensions as to later encourage the creation of a second building lot out of the first, nor shall more than one residential structure (dwelling unit) to be constructed or placed upon any subdivision lot.

1022 - Side Lines - All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.

1023 - Corner Lots - In general, corner lots should be larger than interior lots to provide for adequate building setback from each street and to provide a desirable building site.

1024 - Access from Private Streets - Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.

1030 - Drainage Improvements

1031 - Removal of Spring and Surface Water - The subdivision may be required by the Planning Board to carry away by pipe or open ditch any spring, surface, or storm water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

1032 - Drainage Structure to Accommodate Potential Development Upstream - A culvert or other drainage facility shall be large enough to accommodate potential runoff from it's entire upstream drainage area, whether inside or outside the subdivision.

1033 - Responsibility for Down-Stream Drainage - If requested by the Planning Board, the subdivider's engineer shall study the effect of the proposed subdivision on the existing down stream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff related to the development of the subdivision will overload an existing down - stream drainage facility during a storm with recurrence interval of 5 years, the Planning Board shall notify the Selectmen of such a potential condition. In such case the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

1034 - Planning Board shall require that easements for drainage be turned over to the Town.

1040 - Street Standards

1041 - Layout of Streets - All streets in a subdivision shall be planned so as to meet the following standards:

1. The proposed streets shall conform, as practical, to the adopted Comprehensive Plan or policy statement of the Town of Stockton Springs.
2. All streets in the subdivision shall provide for the continuation of arterial, collector streets. Minor streets shall be designed so as to discourage movement of through traffic. In addition, streets shall be designed so as to provide ready access to all lots in the subdivision for emergency equipment such as fire department vehicles, and ambulance.
3. The arrangement of streets in the subdivision shall provide for the continuation of arterial and collector streets into adjoining unsubdivided land unless topographic or other factors make continuance impracticable or undesirable. Where a subdivision is served by a minor street, the Planning Board may require that a right-of-way or the minor street to be projected to adjacent unsubdivided land (when the

Board finds that such a projected street would be in keeping with the land use goals for the area and with sound planning practice).

4. Reserve strips controlling access to streets shall be prohibited.

5. Intersections of streets shall be at angles as close to (90°) ninety degrees as possible. In no case shall two streets intersect at an angle of less than (60°) sixty degrees.

6. A distance of at least 200 feet shall be maintained between centerlines of offset intersecting streets.

7. Whenever possible, subdivisions containing fifteen lots or more shall have at least two street connections with existing public streets or streets shown on the Official Road Map, if such exists, or streets on an approved Subdivision Plan.

8. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the preliminary and the final plan, marked "Reserved for road realignment (or widening) purposes". Land reserved for such purposes may not be used for building purposes.

1042 - Designing and Construction Standards - All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the' planning Board.

Design and Construction-Standards of Street

	Item	Collector	Minor/Private Gravel Road
1.	Minimum Right-of-way width	66'	66'
2.	Minimum Pavement Width	24'	20'
3.	Minimum Grade	0.5%	1.0%
4.	Maximum Grade	8%	8%
5.	Maximum Grade at Intersections	3% within 75 ft. of the Intersection	3% within 50 ft.
6.	Number of Sidewalks	1/NA	1/NA
7.	Minimum centerline radii on curves	200 ft.	100 ft.
8.	Minimum tangent length between Reverse curves	200 ft.	100 ft.
9.	Depth of sub-grade grading	18"	18"
10.	Gravel depth <u>(Subgrade)</u>	18"	18"
11.	Base gravel depth	4"	4"
12.	Bituminous Paving or Surface Gravel for Private Road	2"	2"
13.	Minimum road crown-centerline to edge of pavement	3"	3"
14.	Minimum shoulder width on each side of road	3'	3'
15.	Shoulder Slope – no steeper than:	3:1	3:1

- | | | | |
|-----|-----------------------|-------|-------|
| 16. | Sidewalks | | |
| | 1) Minimum width | 5'/NA | 4'/NA |
| | 2) Gravel base course | 6" | 6" |
| | 3) Surface Bituminous | 2" | 2" |
16. Deadend
- | | | |
|--|--------------------------------------|--------|
| | Radii of turn around at enclosed end | |
| | Right-of-way boundary - minimum | 90 ft. |
| | inside pavement radius - minimum | 70 ft. |
| | Width of pavement – minimum | 15 ft. |
17. Minimum pavement curve radii at intersections 20 f t.
18. Grades of streets shall conform as closely as possible to the original relief of the land.
19. All changes in grade shall be connected by vertical curves of such length and radius as- will provide clear visibility for a distance of 200 feet.
20. Shoulder slopes shall not be steeper than 3 to 1 ration, (3 feet horizontal and 1 foot vertical), graded, loamed (6 inches compacted) and seeded as required. Back slopes shall not be steeper than 2 to 1 ration, except in ledge cuts when the slope may not exceed 1-1/2 to 1 ratio. They shall meet the same standards in regards to loam and seeding.
21. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water to prevent flooding on the pavement and erosion of adjacent surfaces.
22. In construction of roads, the paved area, sidewalks and shoulder shall be cleared of all stumps, roots, brush, perishable material, and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least sub-grade depth.
23. The roadway area shall be brought to the grade shown on the plan, profile and cross-section, by suitable gravel. The sub base gravel shall meet the specifications for Aggregate Sub-base Courses as contained in the current edition of The Standard Specifications for Highway and Bridges-of the State of Maine Department of Transportation. The upper base gravel shall meet the specifications for Aggregate Base Courses in the same standards.
24. After the upper base gravel has been thoroughly rolled, if the subdivider chooses to pave the road, the pavement material and the manner of application of such shall conform to the requirements of the current edition of The Standard Specifications for Highways and Bridges of the State of Maine Department of Transportation.
25. The Planning Board may require curbing of roads.

1043 - Utilities in Streets - The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the roadway and the street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the road surface is finished.

1050 - Utilities

1051 - Easements - The subdivider shall install any new public Utility system at his own expense, according to the approved subdivision plan. If the utility follows a course which is not co-linear with the road network and in the road right-of-way, the Planning Board shall require that the subdivider provide the appropriate utility administrative body with a utility easement before granting final approval. Such utility easement shall be wide enough for maintenance of the utility system and shall be not less than 12 feet wide.

1052 - Water Systems

1. When adequate public water supply with adequate pressure (see definitions) is confirmed to be available by a public water provider, developers of any subdivision must use that public water service for domestic use.
2. Where public water service is provided, the system shall be designed according to the specifications of the public water provider.
3. Where the public water service is intended for fire protection, plans for such shall be reviewed and approved by the Fire Chief of the Stockton Springs Fire Department.
4. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by:
 - a) a hydrogeologist familiar with the area for all major subdivisions
 - b) a well driller familiar with the area for all minor subdivisions.

1053 - Sanitary Sewerage Systems

1. If subsurface sewage disposal is proposed, the Planning Board shall require that the subdivider provide proof that a subsurface sewage disposal system which is in conformance with the Maine State Plumbing Code can be installed on every lot.
2. If a sewage disposal system is proposed that will service more than one building, the system and related equipment shall be designed by a professional engineer and shall comply with all requirements of the Maine State Plumbing Code.

TOWN OF STOCKTON SPRINGS, MAINE

CLUSTER DEVELOPMENTS

A. **PURPOSE.** The purpose of these provisions is to allow for new concepts of housing development where variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding other provisions of this ordinance relating to dimensional requirements, the Planning Board, in reviewing and approving proposed residential developments located in the Town, may modify said provisions related to dimensional requirements to permit innovative approaches to housing and environmental design in accordance with the following standards. This shall not be construed as granting variances to relieve undue hardship. This section is to supplement "the Subdivision-Ordinance" of the Town of Stockton Springs.

B. **APPLICATION PROCEDURE.** The Planning Board may allow subdivided development on reduced lot sizes in return for open space where the Board determines that the benefits of the cluster approach will prevent the loss of natural features without increasing the net density of the development. The developer shall submit a written application to the Board for a cluster development with two sketch plans.

C. BASIC REQUIREMENTS FOR CLUSTER DEVELOPMENTS.

1. Cluster developments are permitted in the Rural District and shall meet all requirements for a subdivision, and all other applicable town ordinances, including the Performance Standards of Article IV of this ordinance.

2. Each single family detached dwelling shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The developer shall illustrate the placement of structures and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.

3. No individual lot shall be smaller than 20,000 square feet, except that a sub-division plan located in the Rural District which is subject to this Section may reduce the lot size requirements. The reduction shall allow up to 25% of the lots in said sub-division to be no less than 10,000 square feet provided common ground is set aside to maintain an average of one acre per lot in the rural Zone as provided in Section XI, H, I, of the Zoning and Mandatory Shoreland Zoning Ordinance of the Town of Stockton Springs. The Planning Board may approve these reduced sizes when, in its judgment, the reduction does not violate the intent of Town ordinance.

4. The total area of common land within the development shall equal or exceed (20%) twenty percent of the area to be developed and shall equal or exceed the sum of the area normally required in the District.

5. Every building lot that is reduced in area below the amount normally required should be within 1,000 feet of the common land.

6. The distance between dwelling units shall not be less than 25 feet.
7. No individual lot or single family detached dwelling shall have direct vehicular access onto a public road existing at the time of development.
8. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
9. Single family detached dwelling shall be oriented with respect to scenic vistas, natural landscape features, topography, solar energy and natural drainage areas, in accordance with an overall plan for site development.,
10. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro geologist familiar with the area.
11. The location of subsurface waste water disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve areas shall be restricted by deed so as not to be built upon. The report of a licensed Site Evaluator shall accompany the plan. If the subsurface disposal system is an engineered system, approval from the Department of Human Services, Division of Health Engineering shall be provided.
12. Off-street parking for two vehicles per single family detached dwelling shall be provided.
13. Structures shall be set back a minimum of 15 feet from the edge of the right-of-way.

D. DEDICATION AND MAINTENANCE OF COMMON OPEN SPACE AND FACILITIES.

1. Common open space shall be dedicated upon approval of the project. There shall be no further subdivision of this land, which shall be used only for non-commercial recreation, agriculture or conservation, may be permitted.
2. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof indicate that:
 - a. The common open space shall not be used for future building lots; and.
 - b. A part or all of the common open space may be dedicated for acceptance by the Town.
3. If any or all of the common open space is to be reserved for any use by the residents, the by-laws of the proposed homeowner's association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to approval.
4. Covenants for mandatory membership in the association setting forth the owner's rights and interest and privileges in the association and the common land, shall be reviewed by the Planning Board and included in the deed for each lot.

5. This homeowner's association shall have the responsibility of maintaining the common open space(s), and other common facilities until accepted by the Town.

6. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities and Town Assessments.

7. The developer shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Planning Board, upon request of the homeowner's association or the developer.

Attested True Copy _____.

FEE SCHEDULE

	Minimum Fee	Additional Costs
Residential Building	\$.08/sq. ft - Minimum \$20.00	\$25 Shoreland \$50 Floodplain
Commercial Building	\$.10/sq. ft. - Minimum \$30.00	\$25 Shoreland \$50 Floodplain
Accessory Building*	0-72 sq. ft - No permit required 72- 200 sq. ft - \$15.00 200 sq. ft or larger \$.05/sq ft - minimum \$20.00	No permit required for first building of 72 sq. ft or less - any additional accessories building will be permitted at the regular rate regardless of size. \$25 Shoreland \$50 Floodplain
Industrial Building	\$.15/sq. ft. - Minimum \$60.00	\$25 Shoreland \$50 Floodplain
Change of Use	\$30	\$25 Shoreland \$50 Floodplain
Home Occupation	\$30	\$25 Shoreland \$50 Floodplain
Signs	\$20	
Driveway/Road Entrance	\$20	
Fees for porch, deck, wharf	same as building permit fees	
Earth moving < 10 cubic yards > 10 cubic yards	No fee \$20	
Special Exception	\$100	plus mailing & advertising
Board of Appeals	\$100	plus mailing & advertising
Subdivision Minor Major Amendment Minor Modification	\$100 per lot \$200 per lot \$200 per lot \$100	plus mailing & advertising
Internal Plumbing	\$24	plus \$6/fixture plus \$10 for Town
SSWD	\$100	plus \$20 for Town

*** Seasonal (temporary) screen houses and event tents do not require a permit, but are subject to the specific Land Use Standards in the area where they are to be located.**

Wind Energy Development

Ordinance for the Town of Stockton Springs

draft April 1, 2010

1. **Title**

This Ordinance shall be known as the Town of Stockton Springs Wind Energy Development Ordinance.

2. **Authority**

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312, etc. seq.

3. **Purpose**

The purpose of the Ordinance is to provide for the construction and operation of Wind Energy Development in Stockton Springs, subject to reasonable conditions that will protect the public health, safety and welfare.

4. **Definitions**

Applicant is the Development Owner or Operator who files an application under this Ordinance.

Approved Residential Subdivision means a residential subdivision for which all applicable land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Associated Facilities means elements of a Wind Energy Development other than its Generating Facilities that are necessary for the proper operation and maintenance of the Wind Energy Development, including but not limited to buildings, access roads, generator lead lines and substations.

DEP Certification means a certification issued by the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456 for a Type 4 Wind Energy Development subject to this Ordinance.

Development Owner means the entity or entities having an equity interest in the Wind Energy Development, including their respective successors and assigns.

Generating Facilities means Wind Turbines and Towers and transmission lines, not including generator lead lines, that are immediately associated with the Wind Turbines.

Grid-Scale Wind Energy Development means a Wind Energy Development (Wind Energy Development, Type 5) that is of a size that qualifies as a development of state or regional significance as defined in Title 38 M.R.S.A. §482(2).

Historic Area means an Historic Site administered by the Bureau of Parks and Recreation of the Maine Department of Conservation.

Historic Site means any site, structure, district or archaeological site which has been officially included on the National Register of Historic Places and/or on the Maine Historic Resource Inventory, or which is established by qualified testimony as being of historic significance.

Hub Height means the distance measured from the surface of the Tower foundation to the height of the Wind Turbine hub to which the blade is attached.

Large Wind Energy Development means a generating facility (Wind Energy Development, Type 4)

consisting of one or more free-standing Wind Turbines and Associated Facilities with a rated capacity exceeding 100 kW in aggregate that does not qualify as a development of state or regional significance as defined in Title 38 M.R.S.A. §482(2).

Meteorological Tower (MET Tower) means a Tower used for the measurement and collection of wind data that supports various types of equipment, including but not limited to anemometers, data recorders and solar power panels. MET Towers may also include wildlife-related equipment such as ultrasonic bat detectors, bird diverts and wildlife entanglement protectors.

Nacelle means the frame and housing at the top of the Tower that encloses the gearbox and generator.

Non-Participating Landowner means any landowner other than a Participating Landowner. Non-Participating Landowner may also refer to a Participating Landowner of a subject property, who also owns additional abutting or non-abutting property which is not part of the subject property.

Occupied Building means those structures which are or are likely to be occupied by persons, animals or property. This includes, but is not limited to dwellings, places of business, places of worship, schools, health facilities, barns and storage facilities.

Operator means the entity responsible for the day-to-day operation and maintenance of the Wind Energy Development.

Participating Landowner means one or more persons who hold title in fee to or a leasehold interest in the property on which the Wind Energy Development is proposed to be located pursuant to a written agreement with the Development Owner or Operator. Participating Landowner shall also include, but not be limited to: owners of deeded easements and rights of way on the property, mortgage holders, and others who may have a legal interest in or use of the property. A Participating Landowner is only considered as such with respect to his title or interest in the subject property. The same one or more persons' interest in other property is considered a Non-Participating Landowner, as per above.

Permit means the permit applied for by or issued to the Applicant by the applicable Reviewing Authority in accordance with this Ordinance.

Person means an individual, corporation, partnership, firm, organization or other legal entity.

Planned Residence means a Residence for which all applicable building and land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Protected Location means any location, accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a residence or Planned Residence, or Approved Residential Subdivision, house of worship, academic school, college, library, duly licensed hospital or nursing home near the development site at the time an application for a Wind Energy Development is submitted under this Ordinance; or any location within a State Park, National Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, federally designated wilderness area, state wilderness area designated by statute, municipal park or locally designated by rule by the Bureau of Public Lands as a Protected Location. Protected location also includes areas identified by a governmental agency

such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any such areas as may be identified in the Town of Stockton Springs Comprehensive Plan as amended from time to time.

Reviewing Authority means the Code Enforcement Officer or Planning Board, designated pursuant to Section 6 as responsible for conducting review of a particular Wind Energy Development application.

Scenic Resource means either

- a Scenic Resource of state or national significance, as defined in Title 35-A M.R.S.A. §3451(9); or
- a Scenic Resource of local significance that is located within the Town of Stockton Springs and is identified as such in the Town of Stockton Springs Comprehensive Plan as amended from time to time; or open space plan, or scenic inventory adopted by the Town of Stockton Springs; or
- Historic Area or Historic Site; or
- areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any such areas identified in the Town of Stockton Springs Comprehensive Plan as amended from time to time; or
- any location within a State Park, National Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, federally designated wilderness area, state wilderness area designated by statute, municipal park or locally designated by rule by the Bureau of Public Lands as a Protected location.

Shadow Flicker means alternating changes in light intensity caused by the movement of Wind Turbine blades casting shadows on the ground or a stationary object.

Sight Line Representation means a profile drawing showing prominent features, including but not limited to topography, buildings and trees, along and in relation to a line of sight extending from an observer's eye to the lowest point visible on a proposed Tower.

Small Wind Energy Development means one (1) free-standing or roof-mounted Wind Turbine that has a rated capacity of not more than 100kW and is built for and connected with the use of a residence or business located on the site of the Small Wind Energy Development. Type 1, Type 2 and Type 3 Wind Energy Developments are Small Wind Energy Developments.

Snow and Ice Throw means accumulated snow and/or ice buildup on the blades of a Wind Turbine that is or can be thrown during normal spinning or rotation.

Substantial Start means that construction shall be considered to be substantially commenced when any work beyond excavation, including but not limited to: the pouring of a slab or footings, installation of piles, the construction of columns or the placement of a Tower on a foundation has begun.

Tower means the free-standing structure on which the wind measuring or energy conversion system is mounted.

Turbine Height means the distance measured from the surface of the Tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Wind Energy Development means a generating facility consisting of one or more Wind Turbines.

Wind Energy Development, Type 1 means a Small Wind Energy Development with Turbine Height 60 feet or less.

Wind Energy Development, Type 2 means a Small Wind Energy Development with Turbine Height exceeding 60 feet but less than or equal to 80 feet.

Wind Energy Development, Type 3 means a Small Wind Energy Development with a Turbine Height exceeding 80 feet.

Wind Energy Development, Type 4 means a Large Wind Energy Development.

Wind Energy Development, Type 5 means a Grid-Scale Wind Energy Development.

Wind Turbine means a wind energy conversion system that converts wind energy into electricity through the use of a Wind Turbine generator and includes the nacelle, rotor, Tower and pad transformer, if any.

5. Applicability, Effective Date, Conflicts, Severability and Amendments

5.1. This Ordinance applies to any Wind Energy Development proposed or constructed in the Town of Stockton Springs.

5.2. A Wind Energy Development that is the subject of an application determined to be complete by the Reviewing Authority prior to the effective date of this Ordinance, or a Wind Energy Development that was installed prior to the effective date of this Ordinance, shall not be required to meet the requirements of this Ordinance, provided that any physical modification to an existing Wind Energy Development that materially alters the location, requires an increase of area of the site, increases the Turbine Height, increases sound emissions, or that otherwise materially alters the size, type or number of Wind Turbines shall require a Permit under and meet the requirements of this Ordinance.

5.3. Applications under this Ordinance are to be considered with regard to the surrounding buildings, developments and other features existing at the time of application submission and review. Changes to the area occurring after issuance of a Permit, including subsequent construction of nearby residential or commercial developments, shall not require further review of the Wind Energy Development, nor prevent the Wind Energy Development from continuing to operate in accordance with the Permit.

5.4. Effective Date

This Ordinance shall be effective upon approval by the Town of Stockton Springs Town Meeting.

5.5. Conflicts

If there is a conflict between provisions in this Ordinance, the more stringent shall apply. If there is a conflict between a provision in this Ordinance and that of another Stockton Springs Ordinance, the provision of this Ordinance shall apply.

5.6. Severability

The invalidity of any part of this Ordinance shall not invalidate any other part of this Ordinance.

5.7. Amendments

Amendments to this Ordinance may be initiated by the Selectmen or the Planning Board. No proposed amendments to this Ordinance shall be referred to a Town Meeting until the Selectmen have held a public hearing on the proposal, notice of which shall be posted at least thirteen (13) days prior to such hearing and advertised in a newspaper of general circulation in the Town of Stockton Springs at least two (2) times with the date of first publication being at least twelve (12) days prior to the hearing and the second at least seven (7) days prior to the hearing. The proposed amendments shall be adopted by a simple majority vote of a Town Meeting.

6. Permitted Use and Review and Approval Authority

Refer to the Stockton Springs Land Use Ordinance, Appendix A, for specific uses allowed or not allowed in each Zone.

- 6.1. A Type 1 Wind Energy Development shall be allowed in the following zones, in accordance with Section 7 and subject to all provisions of this Ordinance: Commercial, Rural, Residential 1, Residential 2, Residential 3, Village 2;
- 6.2. A Type 2 Wind Energy Development shall be allowed in the following zones, in accordance with Section 7 and subject to all provisions of this Ordinance: Commercial, Rural, Residential 1, Residential 2, Residential 3;
- 6.3. A Type 3 Wind Energy Development shall be allowed as a Permitted Use in the Rural zone only, in accordance with Section 7 and subject to all provisions of this Ordinance. A Type 3 Wind Energy Development shall be a conditional use in the following zones: Commercial, Residential 3;
- 6.4. A Type 4 and Type 5 Wind Energy Development shall be a conditional use in the following zones: Rural only.
- 6.5. Code Enforcement Officer — For a Type 1 or Type 2 Wind Energy Development, or a Type 3 Wind Energy Development in the Rural Zone, the Code Enforcement Officer is authorized to review all applications and may approve, reject or approve the project with conditions.
- 6.6. Planning Board — For Type 3 Wind Energy Developments in other than the Rural Zone, and Type 4, and Type 5 Wind Energy Developments, the Planning Board is authorized to review all applications and may approve, reject or approve the project with conditions.
- 6.7. Any building constructed either as an accessory structure, Occupied Building or dwelling unit in conjunction with a Wind Energy Development requiring Planning Board approval shall also meet the requirements of the Stockton Springs Site Plan Review Ordinance.

7. Permit Requirement

- 7.1. No Wind Energy Development, or addition of a Wind Turbine to an existing Wind Energy Development, shall be constructed or located within the Town of Stockton Springs after the effective

date of this Ordinance unless a Permit has been issued to the Development Owner or Operator approving construction of the facility under this Ordinance.

- 7.2. Any physical modification to an existing and Permitted Wind Energy Development that materially alters the size, type or number of Wind Turbines or other equipment shall require a Permit modification under this Ordinance. Like-kind replacements shall not require a Permit modification.
- 7.3. Receipt of a Permit under this Ordinance does not relieve the Development Owner or Operator from the responsibility to obtain any other Permits or approvals as required under the Town of Stockton Springs Land Use Ordinance, Mineral Extraction Ordinance, Subdivision Ordinance, Wellhead Protection Ordinance, Floodplain Ordinance and Shoreland Zoning Ordinance. Any Wind Energy Development requiring Planning Board review and approval must also meet the requirements of Section 9 of the Stockton Springs Site Plan Review Ordinance.

8. Professional Services

In reviewing an application for compliance with this Ordinance, the Reviewing Authority may retain such professional services as necessary to assist with its review, including but not limited to those of an attorney, engineer or land use professional. The professional shall first estimate the reasonable cost of such review and the Applicant shall deposit with the Town the full estimated cost, which the Town shall place in an escrow account. The Town shall pay the professional from the escrow account and reimburse the Applicant if funds remain after payment. If the escrow account is insufficient to pay for these professional services in full, the Applicant shall be responsible for payment of the balance due and shall deposit forthwith such additional funds with the Town. The Applicant shall be responsible for ensuring that sufficient funds are maintained in the escrow account at all times to cover any and all professional services until the Application is complete and the Reviewing Authority has authorized reimbursement of said funds to the Applicant, which authorization shall not be unreasonably withheld.

9. Public Hearing Requirements

- 9.1. A public hearing is required for any Wind Energy Development that requires Planning Board approval.
- 9.2. Notice of the date, time and place of the public hearing shall be posted and shall also be made as follows:
 1. Published by the Reviewing Authority at least once in a newspaper having general circulation within the Town of Stockton Springs. The date of the first publication shall be at least 21 days before the hearing.
 2. Mailed by the Reviewing Authority by certified mail to the Applicant.
 3. Mailed by the Reviewing Authority by certified mail to the last-known addresses of owners of property located within 1,000 feet of any property line of the parcel(s) on which a Type 3 Wind Energy Development is proposed, at least 14 days before the public hearing, and mailed by the Reviewing Authority by certified mail to the last-known addresses of owners of property located within one mile of any property line of the parcel(s) on which a Type 4 or Type 5 Wind Energy Developments is proposed, at least 21 days before the public hearing. The Planning Board shall maintain a list of property owners mailed a notice in the application file. Failure of any of these property owners to receive a notice shall not invalidate the public hearing, nor shall it require the

Planning Board to schedule another hearing.

4. All costs of notification per the requirements of this section and any other section of this Ordinance shall be borne by the Applicant.

10. Interpretation/Violation/Enforcement

- 10.1. The Code Enforcement Officer (CEO) shall be responsible for enforcing the provisions of this Ordinance.
- 10.2. It shall be unlawful for any person, firm or corporation to violate or fail to comply with or take any action that is contrary to the terms of this Ordinance, or any Permit issued under this Ordinance, or cause another to violate or fail to comply or take any action which is contrary to the terms of this Ordinance or any Permit issued under this Ordinance.
- 10.3. If the Code Enforcement Officer determines that a violation of the Ordinance or the Permit has occurred, he or she shall provide written notice by certified mail to any person alleged to be in violation of this Ordinance or Permit. If the alleged violation does not pose an immediate threat to public health or safety, the Code Enforcement Officer and the parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of the violation. The Code Enforcement Officer shall notify and obtain the consent of the Board of Selectmen before proceeding with any enforcement action or negotiations.
- 10.4. If after thirty (30) days from the date of notice of violation the Board of Selectmen determines, upon consultation with the Code Enforcement Officer, that the parties have not resolved the violation, or if the alleged violation does pose an immediate threat to public health or safety, the Board of Selectmen shall pursue civil enforcement proceedings or any other remedy at law to ensure compliance with the Ordinance or Permit.
- 10.5. Appropriate officers and/or employees of the Town of Stockton Springs shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project.

11. Establishment of Fees

The Selectmen shall, from time to time and after consultation with the Planning Board, establish appropriate application and technical review fees that shall be related to the Town's cost of administering the permit process for each type of Wind Energy Development. These will be appropriately posted and publicized.

12. Application and Decision Deadlines

- 12.1. Prior to submitting a formal application for any Wind Energy Development requiring Planning Board Approval, the Applicant or the Applicant's representative may request a pre-application conference with the Planning Board. Said request shall be made, in writing, to the Board Secretary at least twenty-one (21) days prior to the date of the meeting. The Applicant or representative shall provide the Planning Board with whatever information, relative to the proposed project, is available at the time of the pre-application conference. A pre-application conference is strongly advised. The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre-application conference, and such conference shall not cause the project to be a pending application or

proceeding under Title 1 M.R.S.A. §302 or this Ordinance. No decision on the substance of the project shall be made at the pre-application conference, and no representation made by the Planning Board shall affect the Applicant's rights or obligations under this Ordinance.

1. The purposes of a pre-application conference are to:
 - a. Allow the Applicant to understand the development and review process and required submissions; and
 - b. Identify issues that need to be addressed in future submissions.
2. There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to discuss the following with the Board:
 - a. The proposed site, including its location, size and general characteristics;
 - b. Identify issues that need to be addressed in future submissions.

12.2. Within 30 days after receipt of an application for a Wind Energy Development, the Reviewing Authority shall notify the Applicant that the application is either complete or incomplete. If it is incomplete, such notice shall include the notification of the deficiencies in the materials submitted. Applicants for Wind Energy Developments requiring Planning Board Approval must submit eight (8) copies of all materials to be considered, and must ensure that the Planning Board Chairman is notified of such submission within five (5) days thereafter. If the application is deemed to be incomplete, the Reviewing Authority shall indicate the evidence or information needed. The application shall be deemed abandoned unless the Applicant provides the evidence or information requested, or submits in writing a document indicating the reason for any delay and anticipated date of completion, within 30 days from the date of the notice indicating that the application is incomplete.

12.3. A decision to approve, reject or approve with conditions a Type 1 or Type 2 Wind Energy Development application, or a Type 3 Wind Energy Development in the Rural Zone, shall be made within 30 days of the determination of completeness.

12.4. Where the Code Enforcement Officer is the Reviewing Authority, the Code Enforcement Officer may waive any submission requirement by issuing a written finding that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of this Ordinance. The Code Enforcement Officer may not, however, waive the application fee.

12.5. For Wind Energy Developments requiring Planning Board approval, the Planning Board shall, after the first meeting other than any pre-application conference at which the application is considered, schedule a site inspection to review existing conditions, field-verify the information submitted and investigate the development proposal. Such inspection may take place whether or not the application is deemed complete. The Board may decide not to hold an on-site inspection when the site is impassable due to customary seasonable conditions. If an application is pending during a period when there is snow cover or the site is impassable, the deadline by which the Planning Board shall take final action on the application as specified in Section 12.6 or 12.7 may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection. Written notice of the onsite inspection shall be provided to all parties entitled to notice under subsection 9.2.

12.6. A public hearing shall be held within 30 days of the Planning Board's determination that an application for a Type 3 Wind Energy Development in other than the Rural Zone is complete, and the Planning Board shall render a decision on the application within 30 days of the public hearing.

12.7. A public hearing shall be held within 60 days of the Planning Board's determination that an application for a Type 4 or 5 Wind Energy Development is complete, and the Planning Board shall render a decision on the application within 120 days of the determination of completeness or within 60 days following the public hearing, whichever is later.

13. Application Changes and Expiry

13.1. Throughout the Permit process, the Applicant shall notify the Reviewing Authority promptly of any changes to the information contained in the Permit application.

13.2. Changes to a pending application that do not materially alter the initial site plan may be considered and approved by the Reviewing Authority without an additional public hearing.

13.3. If the Reviewing Authority determines that proposed changes constitute a material alteration to the project, which may include but not be limited to Tower Height, layout and number of Towers as described in the application considered at a public hearing, the Reviewing Authority shall, within 30 days of such a determination, schedule and conduct another public hearing. In making its determination, the Reviewing Authority shall consider whether the proposed changes involve potential adverse effects different from or in addition to those addressed in the initial application.

The notice requirements applicable to the initial public hearing apply to any subsequent public hearings. This subsection 13.3 applies not only to projects initially requiring a public hearing, but also to projects where such changes affect the Type of the Wind Energy Development such that it becomes a project which requires a public hearing, i.e. a Type 2 Wind Energy Development in other than a Rural zone becoming a Type 3 Wind Energy Development as a result of the proposed changes.

13.4. Permits shall expire:

1. One (1) year after the date of approval unless a Substantial Start on construction has occurred and,
2. Two (2) years after the date of approval unless construction of the Wind Energy Development has been completed.
3. If a Permit for a Type 4 or Type 5 Wind Energy Development expires, the Applicant shall implement pertinent provisions of the approved decommissioning plan.
4. Upon the Applicant's written request made prior to the expiration of the applicable deadline, the Reviewing Authority may grant a one-year Permit extension.

14. Application Submission Requirements

14.1. General Submission Requirements

The Applicant shall submit a written application, which shall include copies of each of the following

items listed in this section. For Wind Energy Developments for which the Planning Board is the Reviewing Authority, the Applicant shall submit eight (8) copies of this information.

1. Applicant and Participating Landowner(s) name(s) and contact information and the Applicant's signature;
2. Receipt showing payment of application fee in accordance with Appendix A.
3. Location of the proposed Wind Energy Development including address, tax map number, owner(s) with address(es) of the proposed facility site and any contiguous parcels owned by Participating Landowners, and any parcels that abut the proposed facility site or abut parcels of Participating Landowners that are contiguous to the proposed facility site, overlay and/or sub-districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or sub-districts or abuts a different district, existing use and acreage of the parcel and identification of adjacent properties and their existing uses;
4. Evidence of the Applicant and Participating Landowner(s) right, title and interest in the property to be developed, such as a copy of a deed, easement, purchase option or other comparable document;
5. Location map showing the site of the proposed development, boundaries of all contiguous property under total or partial control of the Participating Owner or Applicant and any Scenic Resource or recognized Historic Site within 2,500 feet of the proposed development;
6. Description of the proposed Wind Energy Development including a narrative overview that includes the number of Wind Turbines and the overall generating capacity of the project, manufacturer's specifications for each Wind Turbine (including but not limited to: type, make, model, Turbine Height, Hub Height, maximum generating capacity, photograph, noise characteristics including noise emission levels and safety and stability data including safety results from independent testing facilities) and a description of Associated Facilities;
7. Site plan showing the location of each proposed Wind Turbine and any and all of the following features within 500 feet of that location: required setbacks, topography (maximum 10-foot contour interval), soils, property boundaries, roads, driveways, rights-of-way, utility lines, buildings (identified by use) and tree cover including average height of trees within 300 feet of proposed turbine location(s) and wetlands, streams, and water bodies within 1,000 feet as well as areas proposed to be cleared of vegetation, replaced and/or regraded;
8. Map showing within 2,500 feet of the proposed Wind Energy Development:
 - a. Any parks and other designated areas considered locally important in the Comprehensive Plan;
 - b. Recognized Historic Sites; and
 - c. Significant wildlife habitats, rare animal occurrence locations, rare and exemplary natural communities, and rare plant habitat as depicted on the then-most-recent Beginning with Habitat maps of the Town of Stockton Springs, if such map exists (see Section 16.2);
9. Plan showing all proposed changes to the site, including temporary or permanent roads or driveways, grading, vegetation clearing and planting, and buffering/screening of the Wind Energy

Development with locations, types and planting size of proposed trees and shrubs;

10. Foundation and anchor design structural drawings from manufacturer for Type 1, 2 and 3 Wind Energy Developments and such drawings stamped by a Maine licensed professional engineer for Type 4 and 5 Wind Energy Developments;
11. Sound level (noise emission)
 - a. specifications prepared by the Wind Turbine manufacturer for Type 1 and 2 Wind Energy Developments; and
 - b. a sound level analysis conducted by qualified engineers for all Wind Energy Developments except when the sound level analysis is waived by the Reviewing Authority for Type 1 and Type 2 Wind Energy Developments;
12. Snow and Ice Throw specifications prepared by the Wind Turbine manufacturer or a State of Maine licensed professional engineer for all Small Wind Energy Developments.
13. A line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes;
14. Emergency and normal shutdown procedures;
15. The location of all utilities, including fire protection systems;
16. If a roof-mounted system is proposed, a letter certified by a Maine licensed professional engineer stating that the roof and the proposed mounting structure are sufficient to hold the proposed Wind Turbine in winds of 100 miles per hour for one hour;
17. If the system will be connected to the energy grid, evidence that the provider of electrical service to the property has been notified of the intent to install an interconnected electricity generator;
18. Elevation photographs of the site;
19. Certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas or other similar certifying organizations;
20. In addition to items 1 through 19 above, for Type 3, 4 and 5 Wind Energy Developments the following sight line, photographic and elevation information is required:
 - a. Sight Line Representation. A Sight Line Representation shall be drawn from representative locations that show the lowest point of the Tower visible from each location. These locations shall include a Sight Line Representation from the closest Occupied Building to the applicable Wind Energy Development and from any public road or public area within 500 feet. Each Sight Line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. There shall be at least two sight lines from the closest Occupied Building or public roads or other significant viewpoints within 500 feet.
 - b. Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of the current view.

- c. Proposed (after condition) photographs. Each of the existing condition photographs shall have the proposed Wind Turbines superimposed on it to accurately simulate the Wind Energy Development when built.
- d. Elevations of the top of any and all structures on the subject property relative to the elevation of the Wind Turbine(s).
- e. The height and elevation relative to the Wind Turbine(s) of trees, both existing and proposed, that are expected to provide visual buffering. In the case of trees to be planted, the proposed height at time of installation as well as the projected mature height is to be provided.
- f. Results from shadow flicker analysis based on modeling software approved by Department of Environmental Protection for Wind Energy Developments.
- g. A visual impact assessment, if required, pursuant to and in accordance with Section 16.18.
- h. Evidence of the Applicant's technical and financial capability to carry out the project as proposed.
- i. Stormwater management plan stamped by a Maine-licensed professional engineer.
- j. Foundation and anchoring system drawings that are stamped by a Maine-licensed professional engineer.
- k. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Reviewing Authority to ensure compliance with this Ordinance.

14.2. Additional submission requirements for Large and Grid-Scale Wind Energy Developments

Applications for large (Type 4) and Grid-Scale (Type 5) Wind Energy Developments shall include the following additional information:

- 1. An affidavit or similar written evidence of agreement between the Participating Landowner and the Development Owner or Operator demonstrating that the Development Owner or Operator has the permission of the Participating Landowner(s) to apply for Permits necessary for construction and operation of the Wind Energy Development.
- 2. Site plan must additionally show access road and turnout locations, substation(s), electrical cabling from the Wind Energy Development to the substation(s), ancillary equipment, buildings and structures, including all permanent Meteorological Towers, associated transmission lines and layout of all structures within the geographical boundaries of any applicable setback.
- 3. Documents related to decommissioning requirements under Section 18.12, including without limitation estimates of decommissioning costs as specified in Section 18.12.4.
- 4. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Reviewing Authority to ensure compliance with this Ordinance.
- 5. For a Type 4 Wind Energy Development where the energy produced will be sold or used by a Person other than the Participating Landowner, Owner or Operator, certification from the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456 that the Wind Energy Development:
 - a. Will meet the requirements of the noise controls adopted by the Board of Environmental Protection pursuant to Title 38 M.R.S.A. Chapter 3, Subchapter 1, Article 6;
 - b. Will be designed and sited to avoid unreasonable adverse shadow flicker effects; and

- c. Will be constructed with setbacks adequate to protect public safety.
- 6. For a Type 4 Wind Energy Development where the energy produced will be used only by the Participating Landowner(s), Owners or Operators, the Reviewing Authority will engage a professional under the terms of Section 8 of this Ordinance to ensure compliance with Section 14.2.5 a, 14.2.5.b, and 14.2.5.c above.
- 7. For a Type 5 Wind Energy Development, certification of compliance with the provisions of Title 38 M.R.S.A. §482(2).
- 8. A plan for maintenance of access roads and storm water controls as well as general procedures for operational maintenance of the Wind Energy Development.
- 9. Copies of all proposed leases secured by the Applicant if the Applicant is not the sole owner of the parcel or parcels on which the Wind Energy Development is proposed to be constructed. Boundaries of said leases shall be clearly illustrated upon the site plan.
- 10. Copies of all easements, existing and proposed, upon the site. The easements shall be clearly illustrated upon the site plan.

15. Meteorological Towers (MET Towers)

MET Towers shall be permitted under the same standards as a Type 1 Wind Energy Development but with no height limitations, other than those imposed under State or Federal law. A Permit for a temporary MET Tower shall be valid for a maximum of one (1) year after which the Code Enforcement Officer may grant up to two (2) extensions of up to one (1) year each. The site shall be restored to its original condition within 30 days following removal of the Tower. The provisions of this section do not apply to permanent MET Towers included as Associated Facilities in approved Wind Energy Development applications.

16. General Standards for All Wind Energy Developments

16.1. Safety Setbacks

A free-standing Wind Energy Development shall be set back a horizontal distance equal to 1.5 times the Turbine Height from above-ground utility lines, property lines and horizontal right-of-way lines of public and private roads. Building-mounted wind energy systems do not require setbacks.

16.2. Setbacks from Special Areas

Wind Turbines exceeding 60 feet or tree height on site, whichever is greater, must be set back 2,500 feet from any open space designated important in any Comprehensive Plan, open space plan, or Scenic Resource inventory adopted by the Town of Stockton Springs, and from any site registered in the National Registry of Historic Places. If an Applicant proposes to locate any portion or element of a Wind Energy Development within a rare animal occurrence consultation circle or within 250 feet of a significant wildlife habitat, as depicted on the then-most-recent Beginning with Habitat map of the Town of Stockton Springs, if such map exists, the Applicant must provide written documentation that the Applicant has consulted with the Maine Department of Inland Fisheries and Wildlife (MDIFW) Regional Wildlife Biologist and has addressed any MDIFW comments or recommendations. The Applicant must demonstrate that the proposed Wind Energy Development will not have an undue adverse effect on any rare, threatened or endangered plants and rare and exemplary plant communities,

or on rare, threatened or endangered wildlife, significant wildlife habitat, or resource area for which consultation is required with MDIFW under this subsection.

16.3. Design Safety Certification

The design of the Wind Energy Development shall conform to applicable industry standards, including those of the American National Standards Institute, and shall comply with standards promulgated by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations.

16.4. Hazardous, Special and Radioactive Materials

The handling, storage and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with standards of these agencies.

No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state and local regulations.

16.5. Uniform Construction Code

To the extent applicable the Wind Energy Development shall comply with Maine's Uniform Building and Energy Code (MUBC) upon its enactment and any other relevant and applicable local and state building codes.

16.6. Controls and Brakes

All Wind Energy Developments shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall operate in fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

16.7. Electrical Components and Interconnections

All electrical components of the Wind Energy Development shall conform to relevant and applicable local, state and national codes. On-site power and transmission lines shall, to the maximum extent practicable, be placed underground.

16.8. Fire Protection Systems

The Applicant shall ensure that the project includes fire protection and suppression systems designed and constructed according to the highest industry standards and construction practices for the type of project being proposed.

16.9. Access

All ground-mounted electrical and control equipment and all access doors to Wind Turbines shall be labeled and secured to prevent unauthorized access. Wind Towers shall not be climbable up to fifteen (15) feet above ground surface.

16.10. Blade Clearance

The minimum distance between the ground and any blades of any free-standing Wind Turbine shall be 25 feet as measured at the lowest arc of the blades.

16.11. Signal Interference

The Applicant shall make reasonable efforts to avoid and mitigate any disruption or loss of radio, telephone, television or similar signals caused by the Wind Energy Development.

16.12. Structure Type

With the exception of Meteorological (MET) Towers, Towers shall be monopoles with no guy wires. This requirement may be waived if the Applicant demonstrates to the satisfaction of the Reviewing Authority that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

16.13. Shadow Flicker

Wind Energy Developments with Wind Turbines exceeding 80 feet tall shall be designed and Wind Turbines sited to avoid unreasonable adverse shadow flicker effects on any Occupied Building on a non-Participating Landowner's property as demonstrated by modeling software approved by the Department of Environmental Protection.

16.14. Erosion Control

Erosion of soil and sedimentation shall be minimized by employing "best management practices" as specified in the most recently amended "Maine Erosion Control Handbook for Construction: Best Management Practices."

16.15. Building-Mounted Wind Turbines

No building-mounted wind energy system may extend more than 20 feet above the roofline of the building to which it is attached. If the system is to be mounted on the roof, the roof must be sufficient to hold the system in winds of 100 miles per hour for one hour.

16.16. Visual Appearance

1. Wind Turbines shall be a non-obtrusive and non-reflective color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporates non-reflective surfaces to minimize any visual disruption.
2. Wind Energy Developments shall not be lighted artificially, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety, or as otherwise required by another governmental agency with jurisdiction over the Wind Energy Development.
3. Wind Turbines shall not include advertising or signs, except for reasonable and incidental identification of the turbine manufacturer, facility owner and Operator and any warnings.

16.17. Visibility of Wind Turbines

The following requirements apply to a Type 3 or 4 Wind Energy Development to the greatest extent

practicable, and to a Type 5 Wind Energy Development to the extent it is not covered by applicable State of Federal regulations:

1. Each Wind Turbine should be located such that existing vegetation and structures screen the Wind Turbine from off-site views and so that mature vegetation and existing structures, if any, are between each Wind Turbine and public and private viewpoints.
2. When existing features do not screen views of a Wind Turbine from Occupied Buildings, Scenic Resources and public and private roads, screening shall be provided, where feasible and effective, through the planting of trees and/or shrubs. Generally, such plantings should be of native varieties. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the Occupied Buildings, Scenic Resources and/or public and private roads.

16.18. Effect on Scenic Resources

1. Except as otherwise provided in this subsection, if a Type 4 or 5 Wind Energy Development is proposed for location in or is visible from a Scenic Resource, the Applicant shall provide the Reviewing Authority a visual impact assessment that addresses the evaluation criteria in Subsection 3. There is a rebuttable presumption that a visual impact assessment is not required for those portions of a Wind Energy Development that are located more than three (3) miles, measured horizontally, from a Scenic Resource. The Reviewing Authority may require a visual impact assessment for portions of the Wind Energy Development located more than three (3) miles and up to eight (8) miles from a Scenic Resource if it finds that a visual impact assessment is needed to determine if there is the potential for significant adverse effects on the Scenic Resource. Information intended to rebut the presumption must be submitted to the Reviewing Authority by any interested person at least 21 days prior to the date of the public hearing on the application. The Reviewing Authority shall determine if the presumption is rebutted based on a preponderance of evidence in the record.
2. The Reviewing Authority shall determine, based on consideration of the evaluation criteria in subsection 3, whether the development significantly compromises views from a Scenic Resource such that the development has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of that Scenic Resource.
3. In making its determination pursuant to subsection 2, and in determining whether an Applicant for a Type 4 or 5 Wind Energy Development located more than three (3) miles from a Scenic Resource must provide a visual impact assessment in accordance with subsection 1, the Reviewing Authority shall consider:
 - a. The significance of the potentially affected Scenic Resource;
 - b. The existing character of the surrounding area;
 - c. The expectations of the typical viewer;
 - d. The Wind Energy Development's purpose and the context of the proposed activity;
 - e. The extent, nature and duration of potentially affected public uses of the Scenic Resource and the potential effect on the public's continued use and enjoyment of the Scenic Resource;
 - f. The scope of and scale of the potential effect of views of the Generating Facilities on the Scenic Resource, including but not limited to issues related to the number and extent of Wind Turbines visible from the Scenic Resource, the distance from the Scenic Resource and the

effect of prominent features of the development of the landscape.

17. Additional Special Standards for Small Wind Energy Developments

17.1. Purpose Built Only

A Small Wind Energy Development shall be built and permitted for the use of the Participating Landowner, and must be connected to one or more of the Participating Landowner's buildings or facilities to provide electricity for same.

17.2. Type 1, Type 2 and Type 3 Wind Energy Developments also shall be set back 1.5 times the Turbine Height from Occupied Buildings, except those owned and occupied by the Participating Landowner or Operator. Participating Landowners, Owners and Operators shall release and indemnify the Town of Stockton Springs from and against any and all liability for personal injury, property damage or otherwise arising from this exception to the general setback requirements for Wind Energy Developments. Said release and indemnification shall conform to language as set forth in Appendix *** and shall be binding on their respective heirs and assigns.

17.3. Noise

A Small Wind Energy Development shall not exceed 50 dBA or, in the Rural zone, 5 dBA above pre-construction background sound levels, as measured at the property line, except during short-term events such as severe wind storms and utility outages. Noise shall be measured with at least two readings twelve hours apart by a meter set on the A-weighted response scale, slow response. The meter shall meet American National Standards Institute (ANSI SI. 4-1961) "American Standard Specification for General Purpose Sound Level Meters." In all events, sound emissions shall comply with sound-level limits and other requirements described in Chapter 375, Section 10 of the rules promulgated by the Board of Environmental Protection concerning the Site Location of Development Law.

17.4. Abandonment of Use

1. A Small Wind Energy Development that has not generated electricity for twelve (12) consecutive months shall be deemed abandoned and shall be removed from the property by the Owner or Operator within 120 days of receipt of notice from the Code Enforcement Officer. If the development is not removed within this time period, the Board of Selectmen shall bring a civil action to prosecute the violation of this subsection.
 - a. Each year, within one (1) calendar month of the anniversary date of the Reviewing Authority's approval of the Wind Energy Development, the Operator shall submit to the Code Enforcement Officer a certification of continued use. If the Code Enforcement Officer does not receive such certification within said time, the Code Enforcement Officer shall be deemed to have received permission to enter the property to investigate whether it has been abandoned.
2. If a surety has been given to the municipality for removal of the development, the Applicant may apply to the Reviewing Authority for release of the surety when the Small Wind Energy Development has been removed to the satisfaction of the Reviewing Authority.

18. Special Standards for Large and Grid-Scale Wind Energy Developments

18.1. Setback from Occupied Buildings

Wind Turbines in a Type 4 or 5 Wind Energy Development shall be set back from the nearest Occupied Building of a Non-Participating Landowner a horizontal distance of not less than one mile, unless appropriate easements are secured from the adjacent property owner for a lesser setback, which can be no less than 1,000 feet from the property line. The easement must be recorded in the Waldo County Registry of Deeds. A horizontal distance not less than 1.1 times the Turbine Height is required for on-site Occupied Buildings.

1. **Participating Landowners**, Owners and Operators shall release and indemnify the Town of Stockton Springs from and against any and all liability for personal injury, property damage or otherwise arising from this exception to the general setback requirements for Wind Energy Developments. Said release and indemnification shall conform to language as set forth in Appendix *** and shall be binding on their respective heirs and assigns.

18.2. Noise

Audible sound from a large or grid-scale Wind Energy Development shall not exceed 50 dBA (time-weighted average), as measured at the boundary of the Participating Landowner's property unless the night time pre-development ambient hourly sound level at a Protected Location is equal to or less than 35 dBA, in which case the audible sound from the development shall not exceed 40 dBA. Methods for measuring and reporting acoustic emissions from Wind Turbines and the Wind Energy Development shall be equal to or exceed the minimum standards for precision described in Chapter 375 of the rules promulgated by the Board of Environmental Protection.

18.3. Vibration

Wind Energy Developments must comply with any and all federal, state and local regulations and requirements relating to ground vibration in the vicinity of Wind Turbines.

18.4. Use of Public Roads

1. The Applicant shall identify all public ways to be used within the Town of Stockton Springs to transport equipment and parts for construction, operation or maintenance of the Wind Energy Development.
2. The Town of Stockton Springs's engineer or a qualified third party engineer, hired by the Reviewing Authority and paid for by the Applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.
3. The Town of Stockton Springs shall bond the road in compliance with state regulations.
4. Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Applicant's expense.
5. The Applicant shall demonstrate that it has appropriate financial assurance to ensure the prompt repair of damaged roads.

18.5. Warnings

A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

18.6. Artificial Habitat

The Wind Energy Development shall avoid, to the extent practicable, the creation of artificial habitat for raptors or raptor prey, such as maintained clearings, electrical equipment boxes on or near the ground that can provide shelter and warmth, and horizontal perching opportunities on the Towers or related structures. The Reviewing Authority shall consider comments and recommendations, if any, made by the Maine Department of Inland Fisheries and Wildlife.

18.7. Relation to DEP or Professional Certification

1. For a Type 4 Wind Energy Development for which there is a DEP certification that has been submitted with the application in accordance with Section 14.2.5, or Professional certification in accordance with Section 14.2.6, the Reviewing Authority shall consider, at a minimum and to the extent applicable, pertinent findings in the DEP or professional certification when making its determination under sections 16.13, 18.2 and 18.4.

18.8. Local Emergency Services

1. The Applicant shall provide a copy of the project summary and site plan to all local emergency services, including paid or volunteer fire department(s).
2. Upon request by the Reviewing Authority, the Applicant shall cooperate with emergency services to develop and coordinate implementation of an emergency response plan for the Wind Energy Development.
3. Wind Turbines shall be equipped with fire suppression systems that will extinguish any fire located in the Nacelle portion of the Wind Turbine.

18.9. Liability Insurance

The Development Owner shall maintain a current general liability policy for the Wind Energy Development that covers bodily injury and property damage with limits in an amount commensurate with the scope and scale of the Wind Energy Development. The Applicant annually shall provide certificates of insurance to the Town of Stockton Springs.

18.10. Public Inquiries and Complaints

1. The Development Owner and Operator shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.
2. The Development Owner and Operator shall make reasonable efforts to respond to the public's inquiries and complaints and shall provide written copies of all complaints and the company's resolution upon request.

18.11. Inspections

Type 4 and 5 Wind Energy Developments shall be inspected at least every two years for structural and operational integrity by a Maine licensed professional engineer, and the Development Owner shall

submit a copy of the inspection report to the Code Enforcement Officer. If such report recommends that the repairs or maintenance are to be conducted, the Owner shall within 14 days provide the Code Enforcement Officer a written schedule for the repairs or maintenance for the Code Enforcement Officer's review and approval. Failure to complete the repairs or maintenance in accordance with the approved schedule shall be deemed a violation of this Ordinance.

18.12. Decommissioning

1. The Applicant shall prepare and submit a decommissioning plan with the application. The Development Owner shall, at its expense, complete decommissioning of the Wind Energy Development or individual Wind Turbines, within twelve (12) months after the end of the useful life of the Wind Energy Development or individual Wind Turbines as specified in the materials provided at the time of application. The Wind Energy Development or individual Wind Turbines will presume to be at the end of their useful life if no electricity is generated for a continuous period of twelve (12) months.
2. Decommissioning shall include removal of Wind Turbines and foundations to a depth of twelve (12) inches. All buildings, cabling, electrical components, roads and any other Associated Facilities shall be removed unless, at the end of the Wind Energy Development's useful life, as determined in accordance with section 18.12.1, the Applicant provides written evidence of plans for continued beneficial use of these aspects of the Wind Energy Development.
3. Except as otherwise provided by section 18.12.2, disturbed earth shall be graded and reseeded, unless the Participating Landowner of the affected land requests otherwise in writing.
4. An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning ("decommissioning costs") without regard to salvage value of the equipment and the cost of decommissioning net salvage value of the equipment ("net decommissioning costs"). Said estimates shall be submitted to the Town of Stockton Springs with the Application and every fifth year thereafter.
5. The Development Owner or Operator shall post and maintain decommissioning funds in an amount equal to net decommissioning costs, provided that at no point shall decommissioning funds be less than twenty-five percent (25%) of decommissioning costs. The decommissioning funds shall be posted and maintained with a bonding company or federal or state-chartered lending institution chosen by the Development Owner or Operator and Participating Landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the Town of Stockton Springs.
6. Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance as may be acceptable to the Town of Stockton Springs.
7. Decommissioning funds shall be posted before the Permit for a Wind Energy Development is issued, and the amount of such posting shall be reviewed and adjusted every fifth year.

8. If the Development Owner or Operator fails to complete decommissioning within the period prescribed by Section 18.12.1, then the Participating Landowner shall have six (6) months to complete decommissioning.
9. If neither Development Owner or Operator, nor the Participating Landowner completes decommissioning within the periods prescribed by sections 18.12.1 and 18.12.7, the development shall be deemed to be in violation of this Ordinance and the Town of Stockton Springs shall take such measures as necessary, including court action, to ensure the completion of decommissioning.
10. The escrow agent shall release the decommissioning funds when the Development Owner or Operator has demonstrated and the Code Enforcement Officer concurs that the decommissioning has been satisfactorily completed, or upon written approval of the municipality in order to implement the decommissioning plan.

19. Approval Standards, Criteria, Guarantees

- 19.1. The Reviewing Authority shall use the appropriate criteria contained in Sections 14, 15, 16, 17 and 18 of this Ordinance in reviewing applications for Wind Energy Developments, and such criteria shall serve as minimum requirements for approval of the application. The application shall be approved unless the Reviewing Authority determines that the Applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the Applicant, who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.
- 19.2. In reaching its decision, the Reviewing Authority shall make and record written findings of fact establishing that the proposed Wind Energy Development does or does not meet the standards of approval appropriate to its Type within the guidelines of this Ordinance. The Reviewing Authority shall notify the Applicant and all parties who requested in writing to be notified of the action of the Reviewing Authority, including the findings of fact, and any conditions of approval. This requirement may be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Reviewing Authority.
- 19.3. The Reviewing Authority may place reasonable conditions of approval on a Permit as necessary to address the standards of this Ordinance.
- 19.4. One copy of the approved Wind Energy Development plan must be included with the application for the Permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.
- 19.5. The Applicant must record one (1) copy of the approved Wind Energy Development plan in the Waldo County Registry of Deeds within thirty (30) days of approval and the book and page number must be provided to the Code Enforcement Officer. Failure to record the plan within thirty (30) days shall void the approval. The Reviewing Authority may extend this period for cause.
- 19.6. The Reviewing Authority may require the posting of an improvement guarantee in such amount and form as is reasonably necessary to ensure the proper installation of some or all improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to

achieve this goal without adding unnecessary cost to the Applicant.

20. Appeals

20.1. Appeals to Zoning Board of Appeals

1. The Zoning Board of Appeals shall hear appeals from final decisions of the Planning Board or Code Enforcement Officer in the administration of this Ordinance. A request for such an appeal must be submitted in writing within 30 days of issuance of a written decision by the Reviewing Authority on the Permit. The Zoning Board of Appeals shall hear an appeal within thirty (30) days of the receipt of a written application, payment of applicable fees from an aggrieved party and public notice. Notice of said hearing shall be posted in the Town Office at least fourteen (14) days prior to the public hearing and advertised in a newspaper of general circulation in Stockton Springs, the date of publication to be at least seven (7) days prior to the hearing. The Zoning Board of Appeals shall send notice of such public hearing by Certified Mail, to all owners of property within the notification radius specified in Section 9.2.3 of this Ordinance, or within 1,000 feet, whichever is greater, of any boundary of the subject property. Said notice shall be mailed no later than fifteen (15) days prior to the date of the public hearing. The purpose of the public hearing shall be for the Zoning Board of Appeals to receive testimony from the Applicant and any interested parties regarding the final decision of the Reviewing Authority relative to any municipal or state ordinance, standard or regulation which is applicable to the proposed project. All costs related to the appeal process will be paid, in advance, by the Applicant.
2. Appeals from the interpretations of this ordinance or decisions of the Planning Board shall be reviewed by the Zoning Board of Appeals on an appellate basis and should be upheld if correct as a matter of law and based upon substantial evidence in the record.
3. Appeals from interpretations of this ordinance or decisions of the Code Enforcement Officer shall be reviewed by the Zoning Board of Appeals on a *de novo* basis, pursuant to State Law.

20.2. Appeals to Superior Court

An appeal may be taken to the Superior Court by any party within forty-five (45) days of the vote on the original decision by the Zoning Board of Appeals in accordance with State Law.